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HEARING

SENATE RULES COMMITTEE  
STATE OF CALIFORNIA



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The first year of the  
year was a very dry one  
and the crops were very  
poor. The second year  
was a very wet one and  
the crops were very good.  
The third year was a  
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crops were very poor.  
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1 SENATE RULES COMMITTEE

2 STATE OF CALIFORNIA

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8 HEARING

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12 STATE CAPITOL

13 ROOM 113

14 SACRAMENTO, CALIFORNIA

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18 WEDNESDAY, JANUARY 5, 1994

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25 Reported by:

26  
27 Evelyn J. Mizak  
28 Shorthand Reporter





APPEARANCESMEMBERS PRESENT

SENATOR DAVID ROBERTI, Chair  
SENATOR WILLIAM CRAVEN, Vice Chair  
SENATOR RUBEN AYALA  
SENATOR ROBERT BEVERLY  
SENATOR NICHOLAS PETRIS

STAFF PRESENT

CLIFF BERG, Executive Officer  
PAT WEBB, Committee Secretary  
RICK ROLLENS, Consultant on Bill Referrals  
NANCY MICHEL, Consultant on Governor's Appointments

ALSO PRESENT

LYNNEL M. POLLACK, Member  
Industrial Welfare Commission  
JACK HENNING  
California Labor Federation, AFL-CIO  
MARK SCHACHT  
California Rural Legal Assistance  
JO-LINDA THOMPSON, General Counsel  
California Restaurant Association  
JULIANNE BROYLES  
California Chamber of Commerce  
PAUL MAHAN  
California Trucking Association  
WILLIE WASHINGTON  
California Manufacturers Association  
ROY GABRIEL  
California Farm Bureau Federation





APPEARANCES (Continued)

JIM ABRAMS  
California Hotel and Motel Association

BILL CAMPBELL, President  
California Manufacturers Association

BETH CAPELL  
California Nurses Association





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## P-R-O-C-E-E-D-I-N-G-S

--oo0oo--

CHAIRMAN ROBERTI: Governor's appointees appearing today, Lynnell M. Pollock, Member, of the Industrial Welfare Commission.

Ms. Pollock, please come forward. We'll ask you what we ask all the Governor's appointees during the confirmation hearing, and that is why you feel you're qualified to assume this position?

MS. POLLOCK: Good afternoon, Senators.

I am an employer in the State of California, and the work of the Industrial Welfare Commission certainly has a great deal of bearing on myself and my husband as employers.

I'm interested in the issues. I have been on the Commission for a number of years, and feel that as an employer representative, I am well qualified for that position.

CHAIRMAN ROBERTI: Are there any questions of Ms. Pollock? Not right now.

Is there anyone here in support? Is there anyone here in opposition? Mr. Henning is coming forward.

Ms. Pollock, maybe we'll have you respond to any opposition testimony.

MS. POLLOCK: Thank you.

MR. HENNING: Mr. Chairman, Members of the Committee, we are in opposition because we believe we're obliged to support the principles that brought this Commission into being under Hiram Johnson, a liberal Republican of our early century.

We feel that Ms. Pollock never voted in consistency





1 with those liberal traditions and principles. We are  
2 particularly disturbed over the fact that she was the great  
3 advocate of the 12-hour day, which we regard as a social  
4 disorder. Under that 12-hour day, there's a terrible burden put  
5 on the single parent, and in most cases, particularly when that  
6 single parent is a woman, more vulnerable to the evils of our  
7 society. She goes to work at 9:00 a.m.; works until 12:00. Has  
8 an hour for lunch, then she works from 1:00 to 10:00 p.m.

9 I have a daughter who works in a child care center,  
10 and I'm fairly familiar with what the centers are. I don't know  
11 of any, there may be some, but I don't know of any that stay  
12 open to that hour.

13 So, the children are on the street. And we emphasize  
14 constantly to not only -- and she's not the sole person  
15 responsible for this social disorder, but we emphasize  
16 constantly to them the terror that this has meant in our urban  
17 centers. It's falling with a terrible impact on minority  
18 families, the single woman, and those kids are on the streets at  
19 night.

20 The children of the street gave us the greatest urban  
21 riot in the history of America. And we're increasing the number  
22 of wandering children when we have the single parent working  
23 until 10:00 p.m. And I'm not counting the travel time from the  
24 job to the home.

25 It's a dreadful thing that anyone in conscience could  
26 vote to establish that kind of an order.

27 Again, we're opposed to another concept she voiced at  
28 two meetings that I recall when we sought to increase the



1 minimum wage to 4.25 an hour, which, for a family of two, places  
2 that family below the poverty line by the determination of our  
3 federal government. And I'm not speaking of the Clinton federal  
4 government. I'm speaking of the Republican government of the  
5 past 12-year rule. Under their concepts, that was an abominable  
6 wage.

7 Ms. Pollock had a solution she voiced on two  
8 occasions that there are social programs available for such  
9 people who can't live on the minimum wage. Well, aside from  
10 contradicting the very purpose of the minimum wage by such a  
11 reference, let's think of the social burden on the fiscal  
12 responsibilities of the state -- the economic burdens, I should  
13 say, and the fiscal responsibilities of the state: turning  
14 workers of low income into welfare dependents. It's a horrible  
15 concept.

16 So, we could not in conscience be silent on the  
17 matter of her reappointment.

18 CHAIRMAN ROBERTI: Is there any other discussion or  
19 debate? Is there anyone else here in opposition?

20 MR. SCHACHT: Good afternoon, Mr. Chairman and  
21 Members. Mark Schacht, California Rural Legal Assistance.

22 We're here essentially for the same reason that  
23 Mr. Henning has appeared. We can't either in good conscience  
24 support this nominee's renomination.

25 We don't believe it is appropriate to reappoint a  
26 nominee who has failed to ever vote to increase the minimum  
27 wage. We think the evidence that has been presented to the  
28 Industrial Welfare Commission over the last several years, the





1 clear weight of that evidence would dictate a minimum wage  
2 increase.

3 We don't believe Ms. Pollock will ever vote to  
4 increase the minimum wage in the State of California, and we're  
5 now at a point where we're on the cusp of a new two-year  
6 evaluation of the adequacy of the minimum wage, and Ms.  
7 Pollock's appointment is before you. We think that it's  
8 appropriate to have new blood; somebody who would look at the  
9 issue, we think, more fairly and objectively, and raise our  
10 deplorably low minimum wage.

11 Thank you.

12 CHAIRMAN ROBERTI: Thank you very much.

13 In support, please come forward.

14 MS. THOMPSON: Thank you, Mr. Chairman.

15 I'm Jo-Linda Thompson. I'm General Counsel for the  
16 California Restaurant Association.

17 I've appeared in front of the Industrial Welfare  
18 Commission in many hearings over the past nine years,  
19 representing the Restaurant Association.

20 I just wanted to make a couple of points. Number  
21 one, as the Chairperson, Ms. Pollock has always conducted  
22 herself in a very fair, impartial, patient way in very trying  
23 kinds of hearings.

24 On the minimum wage issue, I just felt strongly that  
25 in the last set of hearings, over, and over, and over again, the  
26 evidence was that the state of the economy in California, and  
27 indeed, the country, was at a point where the minimum wage could  
28 not be raised at this time. Even the federal government, even





1 the Clinton administration which was looking at contemplating  
2 raising the minimum wage, has put it on the back burner for the  
3 same reason. So, I think she had more than her management  
4 perspective hat on when she analyzed the minimum wage issue at  
5 this time.

6 And the Restaurant Association, and I know a number  
7 of other employers are here to support her nomination, and we  
8 would appreciate a "yes" vote.

9 Thank you.

10 CHAIRMAN ROBERTI: Thank you very much.

11 Please come forward.

12 MS. BROYLES: Hello. Good morning, or good  
13 afternoon. My name is Julie Broyles. I represent the  
14 California Chamber of Commerce on Insurance and Employee  
15 Relations.

16 We'd like to concur with what the Restaurant  
17 Association has said. Ms. Pollock had the courage to vote  
18 against a minimum wage increase at a time that California  
19 employers couldn't bear another increase in their employer  
20 costs.

21 We would like to support the nomination of Lynnell  
22 Pollock.

23 CHAIRMAN ROBERTI: Thank you very much.

24 Please come forward.

25 MR. MAHAN: Paul Mahan, representing the California  
26 Trucking Association.

27 I'd like to just reiterate what has previously been  
28 said, but I'd also like to remind the Committee that the -- by



1 statute, the Industrial Welfare Commission is made up of two  
2 labor representatives, two employer representatives, and one  
3 public member. And Ms. Pollock is an employer representative.

4 It's not always realistic to think that she would  
5 vote on labor's side of an issue.

6 I think she has done a fair and objective job of  
7 ruling, and we would strongly support her confirmation.

8 CHAIRMAN ROBERTI: Is there anyone else who would  
9 wish to testify? Please come forward.

10 MR. WASHINGTON: Good afternoon, Mr. Chairman,  
11 Members. Willie Washington with the California Manufacturers  
12 Association.

13 We support the reconfirmation of Ms. Pollock. We've  
14 worked with her over the last seven years and had an opportunity  
15 to work with her. We think that she has been fair. She's been  
16 very receptive to the ideas, the changes and all, that we have  
17 gone to the Commission for.

18 I think that she has been fairly even-handed in the  
19 way that the rules have been addressed. I think that she has  
20 managed the committee as Chair in a way that has been both  
21 receptive and been respectful to all the people who appeared  
22 before it.

23 Therefore, we support her reconfirmation and urge  
24 your support.

25 CHAIRMAN ROBERTI: Thank you very much.

26 Please come forward.

27 MR. GABRIEL: I'm Roy Gabriel, representing the  
28 California Farm Bureau Federation.





1 I've known Ms. Pollock for the last 15 years and  
2 support her reconfirmation of this position.

3 Thank you.

4 CHAIRMAN ROBERTI: Thank you.

5 MR. ABRAMS: Jim Abrams with the California Hotel and  
6 Motel Association.

7 We have also worked with Ms. Pollock during the time  
8 that she's been on the Commission. Notwithstanding the fact  
9 that she, like three other people on the Commission, are put  
10 there specifically to represent points of view that the  
11 Legislature felt were very important, she has been very careful  
12 in her position as Chair to make sure that everybody gets a fair  
13 hearing, that all points of view are considered, that the staff  
14 does what it's supposed to do, and that the Commission moves  
15 forward in dealing with the issues that are before it.

16 We also support her reconfirmation.

17 CHAIRMAN ROBERTI: Thank you very much.

18 MR. CAMPBELL: Mr. Chairman and Members, Bill  
19 Campbell, President of the California Manufacturers Association,  
20 to add some -- if you'll excuse the term -- weight to what  
21 Willie Washington had to say; a term I don't use very often, by  
22 the way.

23 We would like to go on record as being in strong  
24 support of Ms. Pollock in her position and her activities on  
25 behalf of the Industrial Welfare Commission.

26 We think when you have a division between management  
27 and labor, she has represented both positions well, but  
28 particularly management, which is her assigned position on the





1 Commission.

2 We think she has been receptive to opinions from both  
3 sides on issues that have confronted her. We think she has been  
4 imminently fair to both sides, and we think it is proper that  
5 the Rules Committee and the Senate would reconfirm her.

6 We think her activities have been good for  
7 California, good for keeping California in a competitive  
8 position. And on the issue that she does represent a particular  
9 side in that, that in the interest of fairness, she ought to be  
10 -- she ought to have the opportunity to continue to do that in  
11 view of the fact there's been strong support for her position in  
12 the past.

13 CHAIRMAN ROBERTI: Senator Petris.

14 SENATOR PETRIS: Has she ever voted for an increase  
15 in the minimum wage?

16 MR. CAMPBELL: Yes, she did, in 1988. She voted for  
17 an increase up to \$4 from --

18 MS. POLLOCK: The final decision was 4.25, but I did  
19 support an increase to \$4.

20 SENATOR PETRIS: Was that unanimous, the \$4 one?

21 MS. POLLOCK: Pardon me?

22 SENATOR BEVERLY: Was that a unanimous vote?

23 MS. POLLOCK: No, the \$4 vote was not. The labor  
24 member, David Padilla, voted against it.

25 MR. CAMPBELL: He wanted it higher than what it was,  
26 but it was -- she has voted for an increase, Senator Petris.

27 MS. POLLOCK: That was the proposal that was put out  
28 by the Industrial Welfare Commission in that round of minimum



1 wage hearings, was the \$4 figure.

2 SENATOR PETRIS: Is that the only time you voted for  
3 it?

4 MS. POLLOCK: I had also voted for a slightly smaller  
5 increase in that same round, but that vote had failed.

6 SENATOR PETRIS: Does this come up pretty regularly  
7 every two years?

8 MS. POLLOCK: Yes, lately we have had a review  
9 approximately every two years, the last three reviews.

10 SENATOR PETRIS: You've been on nine years now?

11 MS. POLLOCK: Eleven.

12 SENATOR PETRIS: Eleven years. That's once in eleven  
13 years. It's better than nothing.

14 Thank you.

15 CHAIRMAN ROBERTI: Thank you, Senator.

16 Is there anyone else here who wishes to testify?  
17 Please come forward.

18 MS. CAPELL: Beth Capell, California Nurses  
19 Association.

20 I'd like to apologize to Ms. Pollock for not having a  
21 chance to communicate with her prior to now.

22 We oppose the confirmation of Ms. Pollock. We have  
23 had a number of issues before the IWC. We gave testimony in  
24 support of increasing the minimum wage on a number of occasions.

25 We have also, nurses and other health care workers,  
26 been subject to a dramatic erosion of the eight-hour day, an  
27 ongoing, inch-by-inch, taking away of overtime pay for hours in  
28 excess of eight hours.





1 I bring this to the attention of this Committee not  
2 only because of the substance which we object to, but because of  
3 the way this was done last year, in 1993. At that time, a new  
4 public member was appointed by the Governor literally at 11:00  
5 the night before the Industrial Welfare Commission met. The  
6 Commission met the next day and voted to further undermine the  
7 8-hour day without this member ever having heard testimony or,  
8 to the best of our knowledge, reviewed the issues. Ms. Pollock  
9 was part of the majority that voted to further undermine  
10 overtime pay for hours in excess of eight.

11 For those reasons, we are opposed to her  
12 confirmation.

13 CHAIRMAN ROBERTI: Thank you very much.

14 Is there anybody else here who wishes to testify?

15 Ms. Pollock, you can rebut.

16 MS. POLLOCK: Okay, thank you.

17 Yes, there are a few things that I would like to  
18 clarify, perhaps.

19 First of all, Mr. Henning spoke about the erosion of  
20 the eight-hour day and twelve-hour days without overtime.

21 I would like to say that this issue has been before  
22 the Commission for a number of years. It is something that both  
23 employees and employers have desired to have. This is still  
24 within the context of a 40-hour work week.

25 What it is, is, meeting the changing things that are  
26 going on in the workplace, both nationally and in California, to  
27 allow more flexibility for workers to work schedules different  
28 than an eight-hour day. Presently in California, because of the



1 daily overtime, there are constrictions against this.

2 Oftentimes, workers want to work longer hours and few  
3 days per week, and we have tried to provide this in the orders.

4 Again, I would like to reiterate, it is with overtime  
5 after 40 hours in a week. It is not changing that total number  
6 of hours worked per week. It is only allowing them to work  
7 longer hours in one day, and perhaps having more days off per  
8 week.

9 Particularly in California, many workplaces have a  
10 24-hour operation, and this is desirable in those situations.  
11 The hospital industry has been one that has looked at this for a  
12 number of years.

13 And I might remind the Committee that governmental  
14 entities, such as your county hospitals and so forth, and those  
15 covered by collective bargaining agreements, can already do  
16 this. And that is why we are looking towards the private sector  
17 workers who are not covered by a collective bargaining agreement  
18 who wanted the same type of flexibility that other workers  
19 already had. So, that was one of the issues with the 12-hour  
20 day.

21 The minimum wage, again, I have supported an increase  
22 in the past when we went through the '87 round of hearings that  
23 resulted in the increase to 4.25 in 1988. I did support an  
24 increase, as did all the other members on the Commission. It  
25 was just a matter of what that increase was going to be.

26 As I mentioned earlier, I am on record as voting for  
27 an increase to \$4 per hour.

28 I'd also just like to point out that I have been





1 confirmed by this Committee three times in the past. I have had  
2 opposition before. When I was -- the very first time when I was  
3 appointed, there were letters from organized labor opposing my  
4 appointment. I had no track record at the time, and I think  
5 it's just part of their philosophy, perhaps, to oppose me.

6 I am a management/employer representative, and I have  
7 tried to balance the needs of all of the people that come before  
8 us, and weigh the testimony. The minimum wage issue, of course,  
9 is one of our biggest issues. But again, we have to look at a  
10 lot of factors. We have a lot of testimony from various  
11 positions as to what they are advocating, and we have to balance  
12 all of that and come forth with a decision.

13 CHAIRMAN ROBERTI: Thank you very much.

14 Is there any other testimony? Do any Members wish to  
15 speak? Senator Petris then Senator Craven.

16 SENATOR PETRIS: Mr. Henning mentioned your comment  
17 at one of the recent meetings relating to social services that  
18 are available to people who can't make it on minimum wage.

19 MS. POLLOCK: Yes.

20 SENATOR PETRIS: Can you elaborate on that for us?

21 MS. POLLOCK: Yes, I'd be glad to, Senator Petris.

22 A lot of the people that have testified before the  
23 Commission on the minimum wage issue are -- the minimum wage  
24 workers are, or very close to minimum wage, and a lot of them  
25 are hurting, and I agree with that.

26 But the minimum wage is a base wage for an unskilled  
27 worker. Some of these people are trying to support a large  
28 family on minimum wage with one worker. Some of these people



1 only work part-time and are trying to support themselves or a  
2 family on a minimum wage, and they are not full-time employees.  
3 Some of these people have very limited skills, particularly  
4 limited English use, and do not have the capability to advance  
5 to further positions until they have increased their job skills.

6 So, I had made the comment that there are other  
7 social programs available that can help these people. The  
8 Earned Income Tax Credit is one that is not being widely used  
9 yet by people that could qualify it and have more cash income  
10 available to them.

11 There are the Aid to Families with Dependent  
12 Children. There are other social programs, the Job Training  
13 Programs, that are available.

14 And I think that we cannot solve all of these  
15 problems with an increase in the minimum wage, particularly a  
16 fairly small increase, which is what we usually deal with  
17 percentage-wise.

18 So that, that was why I had made that comment.

19 SENATOR PETRIS: How much is a recipient of AFDC  
20 allowed to earn?

21 MS. POLLOCK: I'm not knowledgeable of that right  
22 now. I'd have to look --

23 SENATOR PETRIS: Then you're not sure that that's  
24 available.

25 There was a time when we encouraged working mothers  
26 who were on welfare to go out and work and improve their skills.

27 MS. POLLOCK: Right.

28 SENATOR PETRIS: That program was killed by President





1 Reagan. I don't know if it's ever been restored. He said that  
2 it didn't make sense to pay people welfare money when they  
3 actually had a job, even though that job was so meager it  
4 couldn't support the family; it only helped a little bit.

5 MS. POLLOCK: Right, and I think the GAIN program in  
6 California is a good example of a program that is available,  
7 although I know the funding is very short.

8 SENATOR PETRIS: It's available on paper, but you're  
9 right; there's not much funding there.

10 MS. POLLOCK: But that increases the job skills also,  
11 plus providing that support for them, particularly the working  
12 mother that needs transportation, child care --

13 SENATOR PETRIS: Did you also have welfare in mind as  
14 an alternative?

15 MS. POLLOCK: No, no.

16 SENATOR PETRIS: That's not included? Well, AFDC is  
17 a welfare program.

18 MS. POLLOCK: It's a welfare program, but we have  
19 people coming to us, you know, with very sad stories of their  
20 life, and you know, I think there's other programs out there  
21 that can help them, too; that minimum wage, an increase in the  
22 minimum wage is not the only solution for some of those people.

23 SENATOR PETRIS: Thank you.

24 CHAIRMAN ROBERTI: Senator Craven moves confirmation  
25 be recommended to the Floor.

26 Is there anyone else here who chooses to testify?

27 Ms. Pollock, my own vote, I think you come with, once  
28 again, highly credible background and a record of integrity, but



1 also a policy is very important, too.

2 From my perspective, after so many years on the  
3 Board, it just strikes me as strange -- along the line of  
4 Senator Petris's questioning -- that your votes in favor of  
5 increasing the minimum wage, despite the fact that you are the  
6 management representative and that is something we do  
7 appreciate, we factor in as a part of why you vote the way you  
8 do, it's just too meager, in my humble estimation, as to the few  
9 times that you voted for minimum wage.

10 And it appears, from my reading of the record, that  
11 those couple of times were simply to vote for an alternative for  
12 a less complete increase.

13 So, it's difficult for me to cast a "no" vote,  
14 because I think you are a person of integrity, but policy is why  
15 we're all here. And policy is why you are appointed to the  
16 Board.

17 I just think that your policy in this case is just  
18 too meager as far as what the times demand as to what a member  
19 of the Board should be doing as far as increasing the minimum  
20 wage. It's almost the same as if you almost never voted for the  
21 increase.

22 So, I'm not going to vote "do pass" myself, and I  
23 have in the past, I believe, in your case, and have gladly done  
24 so. But after so many years, your record just is not enough.

25 That's a policy point that I'm indicating, but it's a  
26 policy point that I happen to hold to very strongly.

27 Does anybody else wish to say something? Senator  
28 Craven.





1           SENATOR CRAVEN: If I may, I'm always impressed when  
2 Jack Henning gets up and speaks because he does it so  
3 eloquently, and he says things that are very, very correct. And  
4 it's very, very difficult for me, as one individual, to say,  
5 well, you don't now what you're talking about, because that  
6 would not be correct.

7           But on the other hand, there are a lot of other  
8 people who trooped up here and came of their own volition, I  
9 suppose, to say a few kind words about this lady, and I am  
10 impressed with what they said as well. And I think the Chairman  
11 and my colleagues would feel the same way.

12           She has, I suppose, said that she represents the  
13 management end, and there's another one who sits with you as  
14 management rep., right?

15           MS. POLLOCK: Yes, that's correct.

16           SENATOR CRAVEN: In the instances where you voted  
17 against raising minimum wage, did that person also vote the same  
18 way, or did they vote for it?

19           MS. POLLOCK: The other management representative and  
20 I have always voted the same on the minimum wage issue, that I  
21 can recall.

22           SENATOR CRAVEN: And would I be correct in assuming  
23 that the labor reps. did the same thing, voted for, both of  
24 them?

25           MS. POLLOCK: Yes.

26           SENATOR CRAVEN: So, the only thing that you really  
27 could learn from that is, you never want to be the public  
28 member.



[Laughter.]

MS. POLLOCK: The public member is in a very difficult position --

SENATOR CRAVEN: Obviously.

MS. POLLOCK: -- very many times on that Commission.

SENATOR CRAVEN: But you know, what this lady has said makes a lot of sense, really, if you're willing to admit it. Giving them, you know, 5 percent, and instead of making \$4, they make \$4.20, that isn't going to improve their English language skills. It isn't going to improve their technical expertise. It isn't going to do any number of things. It is also a certain sociological salve to the individual.

I may well have been, if I had been in your position, I probably would have voted for that, but you didn't, and I admire your guts in doing what you think is appropriate.

But I think that you should consider those things, and also, as I recall earlier in her comments, she said the labor people come and do their thing, and she does that for management. And I don't think that she should be criticized for that. I think that that's only reacting to what she feels her responsibility includes.

If she's been on there for eleven years, this woman has to be as knowledgeable as anybody we've ever had serve on there. And she obviously has to be fair, or somebody would have taken her off long before now.

So, for that reason, I was very happy to make the motion for her acceptance by this Committee.

CHAIRMAN ROBERTI: Thank you very much, Senator.



1 Is there anybody else here who wishes to speak,  
2 testify?

3 Then there is a motion before us. Secretary will  
4 call the roll.

5 SECRETARY WEBB: Senator Ayala.

6 SENATOR AYALA: No.

7 SECRETARY WEBB: Ayala No. Senator Beverly.

8 SENATOR BEVERLY: Aye.

9 SECRETARY WEBB: Beverly Aye. Senator Petris.

10 SENATOR PETRIS: No.

11 SECRETARY WEBB: Petris No. Senator Craven.

12 SENATOR CRAVEN: Aye.

13 SECRETARY WEBB: Craven Aye. Senator Roberti.

14 CHAIRMAN ROBERTI: No.

15 SECRETARY WEBB: The motion fails.

16 CHAIRMAN ROBERTI: The vote is two to three; the  
17 motion fails.

18 That means the nomination is still in Committee. If  
19 for some reason there is a third vote, I'd be glad to reschedule  
20 it before the termination date.

21 SENATOR CRAVEN: Thank you, Mr. Chairman.

22 [Thereupon this portion of the  
23 Senate Rules Committee hearing  
24 was terminated at approximately  
25 2:52 P.M.]

26 --oo0oo--  
27  
28





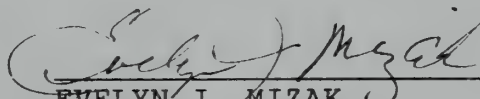
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That I am a disinterested person herein; that the foregoing Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 6<sup>th</sup> day of January, 1994.

  
EVELYN J. MIZAK  
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APPEARANCESMEMBERS PRESENT

SENATOR DAVID ROBERTI, Chair

SENATOR WILLIAM CRAVEN, Vice Chair

SENATOR RUBEN AYALA

SENATOR ROBERT BEVERLY

SENATOR NICHOLAS PETRIS

STAFF PRESENT

CLIFF BERG, Executive Officer

PAT WEBB, Committee Secretary

RICK ROLLENS, Consultant on Bill Referrals

NANCY MICHEL, Consultant on Governor's Appointments

ALSO PRESENT

STEPHEN MAYBERG, Ph.D., Director  
Department of Mental Health

SENATOR MIKE THOMPSON

TERESA ROCHA, Warden  
California State Prison at Folsom  
California Department of Corrections

GEORGE A. SMITH, Warden  
California State Prison, Kings County at Corcoran  
California Department of Corrections

THEO WHITE, Warden  
California State Prison at Sacramento  
California Department of Corrections

LEON RALPH  
Association of Black Correctional Workers

ILENE WILLIAMS, Chief Deputy Warden  
Corcoran State Prison





APPEARANCES (Continued)

ARTHUR WELTON, Correctional Officer  
Corcoran State Prison

CYNTHIA KIRSHNER, Correctional Officer  
Folsom State Prison



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## P-R-O-C-E-E-D-I-N-G-S

--oo0oo--

SENATOR CRAVEN: Let's go to Item 2, which is Governor's appointees appearing today. We begin with Stephen Mayberg, Ph.D., Director of Mental Health.

Would you come up and tell us why you feel that you are qualified for this very important position, please.

DR. MAYBERG: Thank you, Senators, for the opportunity to come before you and present my qualifications.

I'm Dr. Stephen Mayberg, and I've been the State Mental Health Director for the last 11 months. These 11 months have been an exciting time for me. They've been full of dramatic change and possibility.

I came to California in 1971, to do community mental health, doing an internship at the University of California at Davis, and I've remained in California since then. I've been a clinician; I've developed programs; I've supervised staff; I've been an administrator, and I've been a local mental health director.

In all of that time, I've always been struck by the incredible commitment, competence, and energy that the mental health constituency has brought to solving problems. This struggle that consumers and families have dealing with mental illness and stigma, the battles that providers and programs have with limited resources, have all served to strengthen their resolve in the focus of obtaining necessary services in our community. For 20 years, I've been involved with that constituency, and I've been consistent in the expression of my





1 values, which include most of our energy resources need to go  
2 into direct services and to develop a system that fosters  
3 independence and keeps empowering the consumers, the families,  
4 and the providers to be able to change, grow and evolve.

5         The challenge of accepting the job of the Director of  
6 the State Department of Mental Health was both exhilarating and  
7 daunting. Realignment has dramatically changed the structure of  
8 the mental health service delivery system, and the State  
9 Department of Mental Health needed to change to reflect this new  
10 value system and the reality of realignment or not exist at all.

11         I've always been a staunch advocate for strong  
12 Department of Mental Health leadership, and that we need that  
13 leadership to develop a statewide program that embodies our  
14 strengths and our innovations. Since I've had the opportunity  
15 to be Director, I've embarked on a program with several major  
16 initiatives.

17         My first priority was to reorganize the Department to  
18 reflect the realities of realignment. Staffing in the  
19 Department has been reduced by 29 percent, and the programs have  
20 been structured to provide more assistance, more information,  
21 and to deal more effectively with statewide issues. This  
22 reorganization focuses in on training, technical assistance, and  
23 the reform of the State Hospital system, as well as the  
24 development of performance outcomes, and advocating for new  
25 systems of care.

26         A second major initiative for me was to implement a  
27 program to encourage more federal financial participation.  
28 We've begun a statewide implementation of coordinated care, or



1 what's called the rehab option, which allows counties to more  
2 realistically provide services and to receive needed third party  
3 reimbursement for those services. We're now able to broaden the  
4 range of services that are Medi-Cal/Medicaid eligible, as well  
5 as to develop programs that could provide services in the field  
6 rather than in the clinic. It's one step we've taken towards  
7 developing a managed care response in mental health that  
8 includes carving out the mental health piece. A partnership  
9 between the public and private sector in the delivery of crucial  
10 mental health services is implicit in this design.

11           And the third major initiative for me has been the  
12 reform of the State Hospital system. The State Hospitals had  
13 become at risk for closure because of their cost for services.  
14 There was a situation where counties, who are now the purchasers  
15 of State Hospitals, were not able to or interested in purchasing  
16 services because of the expense or the program relevancy. If  
17 the State Hospitals were to survive, they needed to restructure,  
18 reorganize, and develop programs that were cost-efficient,  
19 desired by the community, and perceived by the families and  
20 consumers as worthwhile.

21           Over the last nine months, the State Hospitals have  
22 gone through a dramatic restructuring. We've moved away from  
23 acute hospital models to one of partial hospitalization, more  
24 independence, more choice, and more encouragement to interact  
25 with all our constituency: the consumers, the families, and the  
26 counties. And I'm proud to announce, in that restructuring,  
27 that all of our hospitals are now JCHO accredited.

28           All of these changes have been essential in the





1 development of the credibility of the State Department of Mental  
2 Health. With the support and encouragement of all of our  
3 constituencies, California has begun an ambitious program to  
4 dramatically restructure the mental health services delivery  
5 system since realignment. We're innovative; we're creative. We  
6 hope to return to the national prominence of quality of care  
7 that California deserves.

8           It's been a very exciting year for me, and we've  
9 begun many projects. I only hope that I'll have the opportunity  
10 to continue these projects with your endorsement as the Director  
11 of the State Department of Mental Health.

12           Thank you.

13           SENATOR PETRIS: Any questions?

14           MS. MICHEL: I think Senator Thompson is here to  
15 speak.

16           SENATOR PETRIS: Have a seat, Senator.

17           Senator Ayala, did you want to ask a question or wait  
18 for --

19           SENATOR AYALA: I want to ask Dr. Mayberg a question.

20           Doctor, what steps is the Department of Mental Health  
21 taking to ensure that adequate resources are devoted to the  
22 mental health needs of the homeless in the State of California?

23           DR. MAYBERG: I think that part of what we've tried  
24 to do is restructure our program to both maximize our federal  
25 financial participation and also target populations, and one of  
26 the target populations is the homeless mentally ill.

27           They are a very high priority for us. We have  
28 several specific programs for them: a PATH program, and the



1 McKinney program. And we recently submitted an access grant to  
2 the federal government asking for almost \$5 million in federal  
3 funds to target this particular population, showing that our  
4 system of care can make a difference, and find housing,  
5 employment, and treatment for these unfortunate individuals.

6 SENATOR AYALA: Are you monitoring this program to  
7 see what results we're achieving there on a yearly basis? How  
8 do you get the reports back on the program you're describing?

9 DR. MAYBERG: Several years ago, there was a Rand  
10 study about the efficacy of the homeless programs, and it  
11 suggested that there is wide variability in -- from county to  
12 county in terms of implementing --

13 SENATOR AYALA: County by county?

14 DR. MAYBERG: County by county. And that's why I  
15 think that it's important to have a strong State Department of  
16 Mental Health, to be able to ensure that no matter where you are  
17 in the State of California, you have a reasonable access to  
18 treatment.

19 SENATOR AYALA: You're on top of the statistics. You  
20 can tell us on a monthly basis whether we're improving the --

21 DR. MAYBERG: I wish it were so. Part of what we're  
22 working towards is developing a system of performance outcome so  
23 we do know where the individuals are, who we're serving, and  
24 more importantly, who we're not serving.

25 SENATOR AYALA: The idea of consolidating the  
26 Department of Mental Health with the Department of Alcohol and  
27 Drug Programs has come up several times in discussion in context  
28 of the budget discussions.



1           Could you comment on the merits or demerits or  
2 pitfalls of these potential consolidations?

3           DR. MAYBERG: I think that a year and a half ago,  
4 serious questions were raised about whether or not there even  
5 should be a Department of Mental Health. And part of the  
6 analysis of that suggested that there needed to be strong  
7 leadership with specific focus, and that's what we've tried to  
8 do.

9           There is an overlap in who we serve in the mental  
10 health community and the alcohol and drug community; that many  
11 of our target population are what's called dually diagnosed.  
12 They have both emotional disorders and substance abuse  
13 disorders.

14           But we do have a very different philosophy in the  
15 Department of Mental Health and the Department of Alcohol and  
16 Drug. We look at the majority of our treatment, probably, as  
17 involuntary treatment for people who don't want treatment and  
18 are unable, because of their illness, to make good decisions  
19 about whether they need treatment. The Alcohol and Drug Program  
20 is much more voluntary. It's preventive in nature. And we need  
21 to reconcile those differences in philosophy and approaches  
22 before we really look at the consolidation.

23           We do need to develop programs that deal with the  
24 overlapping populations.

25           SENATOR AYALA: You're not overly enthusiastic about  
26 the possibility of merging the two programs?

27           DR. MAYBERG: To be honest with you, I think that  
28 there are some merits in that, but I have a very ambitious





1 agenda to accomplish, and that I need to spend all my energy  
2 making sure that the under-served mental health population gets  
3 that. And I really don't want to get locked into turf battles  
4 with anybody. I'm very, very proud of our mental health  
5 constituency who have spoken with one voice, and that you don't  
6 find that in-fighting anymore among our group, and that I don't  
7 -- I want to encourage the direction we're going and not get  
8 side tracked.

9 SENATOR AYALA: Thank you.

10 CHAIRMAN ROBERTI: Senator Thompson.

11 SENATOR THOMPSON: Yes, Mr. Chairman, Members.

12 I came down here this afternoon to speak on behalf of  
13 Dr. Mayberg.

14 I want to emphasize that he didn't ask me to come. I  
15 don't even think he knew I was coming.

16 I've had an opportunity to work with him now since  
17 he's been appointed in two roles: one as the Chairman of  
18 Subcommittee 3 in the Budget Committee that deals with Health  
19 and Human Services; and also as someone who has a hospital right  
20 in my home town, Napa State Hospital over in the Napa Valley.  
21 And we had some problems there. I called on him, and I called  
22 on his office. And not only has he worked with me, but he's  
23 gone as far as to meet me there at that hospital. Together,  
24 we've toured the facility. We've worked on specific problems,  
25 and the outcome has been absolutely fantastic.

26 I can't think of another individual who I have  
27 contact with in my role on the Budget Committee that is as  
28 committed, as sincere, and as helpful and dedicated as this man.



1 I just wanted to come down from the Health Committee  
2 this afternoon to put in a good word for him, and would hope  
3 that he would be recommended unanimously for confirmation.

4 SENATOR AYALA: Senator, you mentioned Napa County.  
5 It's not the Veterans' Hospital?

6 SENATOR THOMPSON: No, this is the Napa State  
7 Hospital.

8 CHAIRMAN ROBERTI: Thank you very much, Senator.  
9 Is there anyone here in support or opposition? Then  
10 do I hear a motion?

11 SENATOR CRAVEN: Move.

12 CHAIRMAN ROBERTI: Senator Craven moves that Stephen  
13 Mayberg's confirmation as Director of Mental Health be  
14 recommended to the Floor.

15 Secretary will call the roll.

16 SECRETARY WEBB: Senator Ayala.

17 SENATOR AYALA: Aye.

18 SECRETARY WEBB: Ayala Aye. Senator Beverly.

19 SENATOR BEVERLY: Aye.

20 SECRETARY WEBB: Beverly Aye. Senator Petris.

21 SENATOR PETRIS: Aye.

22 SECRETARY WEBB: Petris Aye. Senator Craven.

23 SENATOR CRAVEN: Aye.

24 SECRETARY WEBB: Craven Aye. Senator Roberti.

25 CHAIRMAN ROBERTI: Aye.

26 The vote is five to zero; confirmation is recommended  
27 to the Floor.

28 Congratulations.



1 DR. MAYBERG: Thank you very much.

2 CHAIRMAN ROBERTI: The next appointee is Teresa  
3 Rocha, Warden of the California State Prison, Folsom.

4 Ms. Rocha, please come forward and tell us why you  
5 feel you're qualified to assume this position.

6 MS. ROCHA: Thank you, Mr. Chairman and Members of  
7 the Committee.

8 I'm appearing before you today with an excess of 14  
9 years of experience within the correctional administration  
10 field. During those 14 years, I have had an opportunity to  
11 serve not only within the Department of Corrections, in  
12 supervisory and managerial positions, but I've also had an  
13 opportunity to serve in positions that have given me a chance to  
14 look at the juvenile justice system. Specifically, I was on the  
15 Youthful Offender Parole Board as a hearing officer. And I've  
16 also had a chance to have some experience within the Adult  
17 Offender Division of the Parole, specifically the Board of  
18 Prison Terms for some time.

19 Additionally, my formal education includes an  
20 undergraduate degree from the University of California, as well  
21 as graduate work in public policy also at the University of  
22 California.

23 Most recently, prior to coming to Folsom State  
24 Prison, I served as the Warden of the Northern California  
25 Women's Facility in Stockton.

26 CHAIRMAN ROBERTI: Thank you, Ms. Rocha.

27 Are there any questions? Senator Ayala.

28 SENATOR AYALA: Ms. Rocha, the capacity is 180





1 percent of capacity? Is that what the prison now is?

2 MS. ROCHA: Yes, sir.

3 SENATOR AYALA: How do you deal with that 180 percent  
4 of capacity at the prison? Have you got modulars out there?

5 I guess the Director's here; he could answer it  
6 probably.

7 How do you handle the 180 percent capacity population  
8 in your jurisdiction?

9 MS. ROCHA: Well, each of the -- Folsom State  
10 Prison, while it is a Level II facility, because it was  
11 constructed over 100 years ago, does have single cell  
12 construction. And what that means, the 180 percent capacity  
13 simply means that we have, in almost every cell that we have,  
14 two inmates.

15 And what we do managerially is that we take the  
16 available staff, and as best we can, we attempt to employ those  
17 individuals. And when I say employment, that also includes  
18 their attending educational programs, as an example, substance  
19 abuse programs. We attempt to keep them gainfully employed  
20 during the regular work day. Not in all cases are they paid,  
21 however, for that work.

22 So, the underpinning of our custodial approach to  
23 dealing with the inmates is to keep them as occupied as possible  
24 and gainfully, hopefully, doing some things that will lead to,  
25 if not their rehabilitation, will cut down on the incidents that  
26 we have within the institution as long as they're incarcerated  
27 there.

28 SENATOR AYALA: The reason I asked that question is



1 because Folsom is a Class IV security installation.

2 MS. ROCHA: No longer, sir. As of August of this  
3 year, 1993, it has been converted to a Level II facility.

4 SENATOR AYALA: I just wondered where do you go with  
5 these folks. There's only two facilities that you can probably  
6 contain them, but the classification has been changed at the  
7 prison?

8 MS. ROCHA: Yes, sir, it has.

9 SENATOR AYALA: Thank you.

10 CHAIRMAN ROBERTI: Thank you, Senator Ayala.

11 Senator Petris.

12 SENATOR PETRIS: A few years ago, we had a lot of  
13 hearings here in this Committee based on very serious charges  
14 brought to us by inmates, and more particularly, by female staff  
15 members on sexual harassment and discrimination. And we heard  
16 complaints from other facilities. Folsom seemed to have the  
17 worst record at that time, and we had very expensive hearings.

18 So, I'm wondering what the situation is there now?  
19 Have there been complaints in the last year along those lines?  
20 Has the situation improved?

21 MS. ROCHA: Senator, we have had complaints in the  
22 last year, and I believe the situation has improved.

23 One of the things that I believe is critical to  
24 administering an organization of the size of Folsom -- and we  
25 have in excess of 800 employees -- is that you have to have a  
26 process in place which allows those individuals to freely  
27 approach the administration, or whomever is going to resolve  
28 their problems with their administration, free of any fear of





1 retaliation.

2           The Affirmative Action program which administers the  
3 EEO office is a separate functioning organization within the  
4 system, and that system reports directly to the Warden's office;  
5 in Folsom's case, myself. We have extensive training of  
6 individuals who can deal with informal complaints out in the  
7 organization, and then if necessary, or if the complainant so  
8 desires, we can also go formal, and that would involve an  
9 investigation, and then finally some adjudication is necessary  
10 if the seriousness of the offense warranted it.

11           In an organization as large as the one that we have,  
12 with the diverse staff that we have, I think we should always  
13 reasonably expect that there will be some complainants. I think  
14 the test for management is the system that we have in place to  
15 respond to that, the training that we put in place so that  
16 individuals are aware of what it is they are doing, and the  
17 responsiveness that we demonstrate to the complainant to resolve  
18 their problem when we have evidence that the problem is, in  
19 fact, one that is credible.

20           I think that we have made some considerable effort.  
21 I think I'm proud of the system that we have there now. We  
22 have, over the last year, had various complaints coming to us  
23 primarily informal. And in my mind, that's a good sign, because  
24 that means that people are coming to us more quickly when they  
25 are encountering behavior that is not acceptable, and that we  
26 are able to deal with it through counseling, not letting it get  
27 to the stage where the intensity where the person is so  
28 debilitated that they need a formal investigation and possibly





1 some level of adverse action needs to be taken.

2 So, I think that those are the ways in which through  
3 management I feel that we've made some considerable progress in  
4 the last year, and I think the system, by and large, is working  
5 now.

6 SENATOR PETRIS: Can you tell us a little about the  
7 training program? How do you go about training people in this  
8 area?

9 MS. ROCHA: The Affirmative Action Office in  
10 Headquarters has been charged with the responsibility of  
11 researching not only within state government, but they have also  
12 researched heavily the federal government, and also the private  
13 sector, and have obtained information in cooperation from all of  
14 those parties in putting together an extensive training program.

15 The program itself, there's a formal training that  
16 goes over a period of days, and in some cases weeks. The  
17 administration is charged with responsibility for selecting  
18 individuals throughout the institution who represent diversity,  
19 not only in terms of ethnic and gender, but also in case of a  
20 24-hour institution, on all the watches. We get those persons  
21 together -- at Folsom we have about 20-25 of those individuals  
22 -- and put them through that training process. There is a  
23 formal lesson plan.

24 We have trainers from Headquarters who are dedicated.  
25 They are formally trained. This is not something they're doing  
26 on the side. They are professionals in every sense of the word.  
27 They make themselves available to the institutions. We put  
28 people through that training; they are then certified at the end



1 of it.

2 We also have quarterly meetings, if not more  
3 frequently, to update them on any emerging issues or any case  
4 law that has come out in the intervening months.

5 SENATOR PETRIS: Do you have training in sexual  
6 harassment?

7 MS. ROCHA: Yes, we do, sir. We have -- the  
8 Department has a very aggressive training program in place.

9 SENATOR PETRIS: Have the number of complaints been  
10 reduced as a result of the training?

11 MS. ROCHA: I believe the numbers of complaints have  
12 been reduced. And equally important, I think that the types of  
13 complaints that we're getting are more timely and more serious  
14 in nature. And that is not to suggest that -- any inappropriate  
15 behavior of the type that sexual harassment represents is simply  
16 not tolerable. So, I don't want to suggest that I think that  
17 the complainant may not feel that it's as serious, but what I  
18 mean is that the duration, typically, of what has gone on, and  
19 also the numbers of people involved in it has significantly  
20 dwindled, both in numbers and intensity, and I think that's a  
21 good sign.

22 SENATOR PETRIS: At the time of our hearings, it was  
23 made pretty clear to us by some very courageous women who came  
24 forward, there was no guarantee of lack of retaliation. We  
25 warned the Department and said we don't want to hear about any  
26 retaliation, but you can't guarantee it.

27 They complained about the "good ol' boys club". And  
28 it was fashionable. It was so blatant, it looked like it was





1 encouraged to go after the women. The women felt safer among  
2 the inmates than they did among their fellow employees,  
3 especially those who ranked a little bit higher than they did.

4 It caused us a great deal of concern. And the  
5 Department said at the time they would really go to work with  
6 training programs, and do this and that, but I haven't seen any  
7 report since then on the reduction of incidents, and so forth.  
8 Of course, I haven't seen any complaints, either, so maybe that  
9 is a good sign.

10 You're satisfied that the program is working?

11 MS. ROCHA: I believe, sir, yes, that the program is  
12 working.

13 SENATOR PETRIS: If a woman today encounters a  
14 problem, what is the first step she's supposed to take? Is it  
15 an informal session with you or somebody on your staff?

16 MS. ROCHA: A person today encountering a problem has  
17 a -- continues to have a variety of options available to them.  
18 They can take an -- they can file an informal complaint, in  
19 which case they would deal with an EEO counselor that they  
20 select, someone of those 20 or 25 who they feel comfortable  
21 with, and they can have it informally resolved. And what that  
22 would mean, if I were a counselor and someone came to me and  
23 reported something, at that point I could then meet with the  
24 person whom they felt had committed the offense and attempt to  
25 deal with it informally. And the complainant has input as to  
26 whether or not that's the level at which they want it to be  
27 dealt with. That's one option.

28 Another, a second option, would be that they could





1 come and say no, that they feel that it's been going on for some  
2 time, or that they feel it's a particularly offensive thing, and  
3 that the person whom they are accusing might possibly deserve  
4 some level of adverse action. If that's the case, then we take  
5 it immediately to the formal level.

6 And we do not do investigations internally. Once we  
7 have a formal complaint, our Affirmative Action Coordinator  
8 takes that complaint to Headquarters, and we get an investigator  
9 from outside of the institution, so that we have not only the  
10 perception but the reality of an objective, intensive  
11 investigation that then occurs, and we attempt to do that in as  
12 timely a fashion as possible.

13 SENATOR PETRIS: Is that a change from past practice?

14 MS. ROCHA: I think it's difficult -- I'm not  
15 absolutely sure from what point in time you are measuring a  
16 change from past practice. So long as I have been at Folsom,  
17 which is the past year, that has been the practice that we have  
18 had in place there.

19 SENATOR PETRIS: Well, I'm thinking four or five  
20 years.

21 MS. ROCHA: It's definitely a change from four or  
22 five years ago.

23 SENATOR PETRIS: I'm happy to hear that.

24 Let me go on to a couple other areas. We see the  
25 statistics time and time again about the correlation between  
26 incarceration at a state prison and the lack of education. A  
27 lot of illiterates in the prisons. They're dropouts. You know  
28 the story.



1           We've tried to have a program to offer opportunities  
2 to make inmates literate before they go out again. I assume you  
3 have such a program at Folsom?

4           MS. ROCHA: Yes, sir, we do.

5           SENATOR PETRIS: Can you comment on it?

6           MS. ROCHA: The literacy program, which if course is  
7 a result of a legislative mandate, is one that we take very  
8 seriously at Folsom.

9           One of the things that we are doing now is very  
10 aggressively reorganizing, and it does take some time, because  
11 we have to take existing staff. And they were, of course, hired  
12 with certain expertise, but our emphasis is very definitely in  
13 the area of literacy now.

14           In addition to the professional staff, we have 51  
15 educators on the staff at Folsom Prison. In addition to the  
16 professional staff, some of whom have particular emphasis in  
17 literacy, we are also recruiting very aggressively volunteers  
18 from the community who come in, as well as we are taking  
19 advantage of the VISTA program, which is a federal program  
20 that allows employees to be paid through the federal system and  
21 who come in and are additionally organizing volunteers who are  
22 coming in. And a part of that program is not only individuals  
23 from the outside, but the recruitment of inmates who have  
24 reached a certain literacy level -- in the case of the  
25 legislation, it's mandated to be over 9th grade -- and who are,  
26 on a volunteer basis, tutoring other inmates on a one-to-one.

27           We also have a computer-assisted literacy program, so  
28 we have been successful in getting additional funds. In some





1 cases, that's federal funding to get personal computers -- not  
2 personally for the inmates, but into our lab, PCs,  
3 free-standing. We have software that accommodates the literacy  
4 emphasis.

5 So I think, again, there's an area that we've made  
6 some considerable progress, and, of course, we have a way to go  
7 with that.

8 SENATOR PETRIS: To go back to the prior subject, I  
9 heard on the news, I guess last night, about the judgment in a  
10 San Quentin case, over a million dollars on sexual harassment.  
11 I don't know any of the facts; I haven't seen the printed story.

12 I suppose if that came to trial, you now, this past  
13 week, it's probably a very old case. It takes a while for those  
14 to work their way through.

15 Are you familiar with that case?

16 MS. ROCHA: I'm sorry, I'm not.

17 SENATOR PETRIS: I'm glad it wasn't Folsom.

18 MS. ROCHA: Yes, sir, so am I.

19 [Laughter.]

20 SENATOR PETRIS: Thank you.

21 CHAIRMAN ROBERTI: Senator Ayala.

22 SENATOR AYALA: I have another question.

23 I represent an area, a district, that has four state  
24 institutions within a school district, by the way. And it's  
25 contiguous to the fifth one.

26 We continually hear about the drug and alcohol abuse  
27 within the prison. Is this happening at Folsom? And if so,  
28 what are you doing about it?





1 MS. ROCHA: I would venture that that probably is  
2 happening within most, if not all, state prisons.

3 And I think that it has historically presented a  
4 challenge to the administration. It currently does, and it  
5 probably will in the foreseeable future.

6 We are -- we have all manner of attempts to reduce  
7 the level of illicit drugs and/or any kind of substance abuse  
8 within the correctional facility. And we have to assume, for  
9 the most part, since they're not manufacturing it inside, that  
10 it's coming in from the outside. And so, we do have programs in  
11 place, and we are, of course, constrained by regulations and by  
12 laws as to how aggressive we can be in that search. But we do  
13 routinely search, and we do, of course, have prior clearance,  
14 security clearances of visitors, inmates, and that type of  
15 thing. And that's really the primary way that we have to stop  
16 the stream of illicit drugs and/or any other substances into  
17 the institution.

18 SENATOR AYALA: The problem is not that great? It's  
19 just the perception that there's a lot of alcohol and drug use  
20 with the prison inmates. That's not the case? It's not that  
21 great a problem as we're told out in the streets?

22 MS. ROCHA: From a correctional administrator  
23 perspective, any amount of drugs or illicit substances are too  
24 great of an amount.

25 I'm not sure as to the specifics, and I'm not  
26 familiar with what kind of perception there may be in your  
27 particular area.

28 But I think, as anything else, when there is an



1 incident, and that incident is brought to the attention of the  
2 outside world, typically through the media, that there tends to  
3 be a focus on that subject. And I think that's a fair thing to  
4 be happening. I think that our consciousness and our focus  
5 should continue to be on those problem areas.

6 I suspect that there may be more of a perception  
7 about that than there is, in fact, in reality.

8 But I can just assure you that so long as there is  
9 any of that, you're going to aggressively pursue ways to  
10 eliminate it.

11 SENATOR AYALA: You don't have any specific programs  
12 in place to look into that area of drug and alcohol abuse within  
13 the prison?

14 MS. ROCHA: The entire custodial system is at work,  
15 constantly searching for that type of illicit activity.

16 SENATOR AYALA: Thank you.

17 CHAIRMAN ROBERTI: Any other questions?

18 Anyone in the audience here to testify in favor or  
19 opposition?

20 Bishop Ralph.

21 MR. RALPH: Thank you. We have a little session  
22 afterwards.

23 CHAIRMAN ROBERTI: Yes, it's good to see you with us.

24 MR. RALPH: Thank you, Mr. Chairman. It's good to be  
25 with you and all of the Members of this Committee.

26 Little did I realize when I grew up that I would have  
27 Senator Beverly as my Senator, but that's a pleasure.

28 Mr. Chairman and Members, thank you for the courtesy



1 to allow me to appear before your Committee. I'm here  
2 representing the Association of Black Correctional Workers, and  
3 we do support this appointment. And we don't take that support  
4 lightly.

5 This year, what I did was, I sent out memos  
6 requesting any feedback from the various chapters and their  
7 members who work with these Wardens who are before you today.  
8 And in all of the instances, I'm happy to report, the membership  
9 of our Association, at least, it's an employee association, they  
10 were very favorable in their responses; meaning that the Wardens  
11 are working with them and listening to complaints. So, I think  
12 the system appears to be working very well.

13 So, I'm here to support her, and the other two  
14 candidates who have been nominated by the Governor.

15 CHAIRMAN ROBERTI: Thank you very much, Bishop. Your  
16 opinion is very important to us, as well as that of the  
17 organization you're representing.

18 Any questions? Thank you.

19 MR. RALPH: Thank you.

20 CHAIRMAN ROBERTI: Do I hear a motion?

21 SENATOR BEVERLY: I move we recommend confirmation.

22 CHAIRMAN ROBERTI: Senator Beverly moves the  
23 recommendation of Teresa Rocha be made to the Senate Floor.

24 Secretary will call the roll.

25 SECRETARY WEBB: Senator Ayala.

26 SENATOR AYALA: Aye.

27 SECRETARY WEBB: Ayala Aye. Senator Beverly.

28 SENATOR BEVERLY: Aye.





1 SECRETARY WEBB: Beverly Aye. Senator Petris.

2 SENATOR PETRIS: Aye.

3 SECRETARY WEBB: Petris Aye. Senator Craven.

4 Senator Roberti.

5 CHAIRMAN ROBERTI: Aye.

6 The vote is four to zero; confirmation is recommended  
7 to the Floor.

8 Thank you very much.

9 MS. ROCHA: Thank you.

10 CHAIRMAN ROBERTI: The next appointment is Warden,  
11 California State Prison, Kings County at Corcoran, Department of  
12 Corrections, George A. Smith.

13 Mr. Smith, please come forward. We'll ask you as  
14 well why you feel you're qualified to assume this position?

15 MR. SMITH: Mr. Chairman and distinguished Members of  
16 the Committee, I have been serving as the acting Warden and  
17 appointed Warden at Corcoran since May 1st, 1992.

18 I began my career with the Department of Corrections  
19 in 1971 at the Correctional Training Facility at Soledad. I  
20 promoted through the ranks at Soledad to Sergeant of  
21 Correctional Programs Supervisor II and Lieutenant. In 1980, I  
22 promoted to the California Correctional Center at Susanville as  
23 a Correctional Program Supervisor III. I transferred in 1982 to  
24 Sierra Conservation Center and Deuel Vocational Institution, and  
25 promoted again back to Soledad in 1983 as a Correctional  
26 Captain.

27 While at Soledad, I promoted to Program Administrator  
28 in 1984, Correctional Administrator in 1986, and in 1988 I went



1 to Corcoran as the first Chief Deputy Warden, where I served  
2 until I assumed my responsibilities as the Acting Warden in May  
3 of '92.

4 In the last year and a half at Corcoran, we've  
5 accomplished a great deal. The most outstanding accomplishment,  
6 I would imagine, is that our acute care hospital was dedicated  
7 October 21st, 1993; a 75-bed fully licensed acute care hospital.

8 We have developed a literacy program utilizing inmate  
9 tutors, which we began in December of '92. We have trained 135  
10 inmate tutors, each one teaching from two to three inmates on  
11 their own time, after their own work hours. We have also  
12 trained 15 staff members.

13 We have an expanded PIA program, Project 2000, which  
14 will make modular systems for the Department and other state  
15 agencies.

16 We have a record of harmonious relationships at  
17 Corcoran that I believe will stand with anyone.

18 I'm married. My wife has followed me through all of  
19 this career throughout the state. I have five children,  
20 grandchildren, and a great-granddaughter.

21 We're very proud of our institution and our staff,  
22 and I believe I can continue to do an excellent job as a Warden  
23 there.

24 CHAIRMAN ROBERTI: Thank you very much, Mr. Smith.

25 Senator Ayala.

26 SENATOR AYALA: Mr. Smith, aside from the  
27 overcrowding that we face in California prisons, what are the  
28 most pressing problems facing us in the next five years in terms



1 of the prison system in California?

2 MR. SMITH: Well, of course, the population is  
3 growing, Senator.

4 However, Corrections today is not like Corrections  
5 was even ten years ago. It's become a much more complex  
6 operation. Of course, we have 32,000 employees. We have  
7 positions in Corrections now that weren't even heard of ten  
8 years ago.

9 We have to learn to change some of the ways we've  
10 done business in the past. And I think the impact of Americans  
11 with Disabilities Act, the impact of EEO, the impact of our  
12 Medical Services Division, tuberculosis, AIDS, all of these  
13 things contribute to more important things than just  
14 overcrowding alone.

15 SENATOR AYALA: Thank you.

16 CHAIRMAN ROBERTI: Thank you, Senator Ayala.

17 Any other questions?

18 Is there anyone here to testify in either support or  
19 opposition? Bishop Ralph indicated, yes, please come forward.

20 MR. RALPH: Senator Roberti, maybe I should place  
21 myself on a track and glide back.

22 Thank you so much for your courtesy again.

23 There is a group of members from the Association that  
24 I represent that came up with Mr. Smith. The President of that,  
25 I guess it's the Central Valley Chapter, called me at one of my  
26 offices in L.A. and indicated that they very strongly supported  
27 Mr. Smith because of his interaction with members of our  
28 Association and his concerns and commitment to fair treatment in





1 terms of promotion, and relating to those people.

2 So, they are here. A large contingent of them drove  
3 up with him, which is a pretty unusual testimony.

4 CHAIRMAN ROBERTI: Very good. Why don't we have them  
5 stand to indicate their support and raise your hands. The whole  
6 audience.

7 You're not so bad, Mr. Smith.

8 MR. RALPH: Thank you, Mr. Chairman.

9 SENATOR AYALA: I want to shake your hand.

10 [Laughter.]

11 CHAIRMAN ROBERTI: Please come forward.

12 MS. WILLIAMS: Thank you kindly for this invitation  
13 to speak before the Committee today.

14 I'd like to say that my name is Ilene Williams, and I  
15 am second in command at the Corcoran State Prison. And I went  
16 up for endorsement through the Director's office as Mr. Smith's  
17 candidate of choice.

18 I sit here before you today, and I'd like to say to  
19 you that I began my career in the Department of Corrections in  
20 1967. And I feel that I am very much qualified to speak on  
21 Mr. Smith's behalf in the way that he has treated his staff at  
22 Corcoran State Prison.

23 I have worn two hats at that Prison now for about  
24 five years as the Affirmative Action/Equal Employment  
25 Opportunity Coordinator for the institution. And our figures  
26 there are outstandingly sound, as I would put it, in that for  
27 the last five years that I have been the AA/EEO Coordinator, we  
28 have had complaints in that prison; however, every decision that



1 we have made, we have acted quite readily at Mr. Smith's  
2 direction. And we have acted very quickly, and any complaints  
3 that we have had in that prison have been ruled that Corcoran  
4 State Prison has done the right thing, acted in an expedient  
5 manner and dealt with the problem.

6 So, I'd like to say that on behalf of the people that  
7 came up with me, these are the fortunate ones that were able to  
8 get a ticket on the bus that we rented, free of all -- on our  
9 own expense, to come here. I speak for them and the other 1500  
10 and some that were unable to come. They asked that I let you  
11 know that we are very pleased with Mr. Smith. We're very proud  
12 of Mr. Smith. He's a smart man. He's an intelligent leader,  
13 and we learn a lot.

14 Thank you very much.

15 CHAIRMAN ROBERTI: These seem to be going a lot  
16 easier than other past Wardens' confirmations.

17 Is there anyone here in opposition?

18 FROM THE AUDIENCE: I want to speak on behalf of  
19 Mr. Smith.

20 CHAIRMAN ROBERTI: Please come forward.

21 MR. WELTON: Good afternoon, Committee. My name is  
22 Officer Welton.

23 I've been at Corcoran since March of 1988, and I  
24 worked for this man for quite sometime. And it's been numerous  
25 occasions that I had to go speak to him in his office on things  
26 that we had that we figured there was a problem there. And he  
27 was able to resolve them very quickly and swiftly.

28 By me being a minority officer, he dealt with



1 affirmative action situations, I felt, very appropriately. And  
2 he has been sincere. He has been like a confidant to us. He's  
3 more like a father figure to us as far as the staff members that  
4 I have spoke with and myself, that know of him.

5 And that's basically what I have to say.

6 CHAIRMAN ROBERTI: Thank you very much, Officer.

7 Do I hear a motion?

8 SENATOR BEVERLY: So move.

9 CHAIRMAN ROBERTI: Senator Beverly moves --

10 SENATOR AYALA: I'd like to move the nomination of  
11 this wonderful man.

12 CHAIRMAN ROBERTI: Okay, Senator Ayala moves.

13 [Laughter.]

14 CHAIRMAN ROBERTI: Senator Ayala moves confirmation  
15 of George Smith be recommended as Warden of Kings County at  
16 Corcoran.

17 Secretary, call the roll.

18 SECRETARY WEBB: Senator Ayala.

19 SENATOR AYALA: Aye.

20 SECRETARY WEBB: Ayala Aye. Senator Beverly.

21 SENATOR BEVERLY: Aye.

22 SECRETARY WEBB: Beverly Aye. Senator Petris.

23 SENATOR PETRIS: Aye.

24 SECRETARY WEBB: Petris Aye. Senator Craven.  
25 Senator Roberti.

26 CHAIRMAN ROBERTI: Aye.

27 The vote is four to zero; confirmation is recommended  
28 to the Floor.





1                   Congratulations.

2           MR. SMITH: Thank you very much, Senators.

3                   [Thereupon the Senate Rules  
4                   Committee acted upon other  
5                   agenda items.]

6           CHAIRMAN ROBERTI: Now we have the appointment of  
7 Theo White, Warden of the California State Prison at Sacramento,  
8 Department of Corrections.

9           Mr. White, we'll ask you what we asked the other two  
10 Wardens, and that is why you feel you are qualified to assume  
11 this position?

12           MR. WHITE: Thanks, Mr. Chairman and Members.

13           Thank you for giving me the opportunity to appear  
14 before you today.

15           I have 29-plus years in the Department of  
16 Corrections, working in a variety of institutions and a variety  
17 of positions. My last position prior to my current assignment  
18 was as Warden at the Chuckawalla Valley State Prison in Blythe.

19           I have a Bachelor's Degree in education from the  
20 California State University at Long Beach, a Master's of Arts  
21 Degree from Chapman College in Orange, and a Master's of Science  
22 Degree from the California State University at Fullerton.

23           Prisons today require an administrator with a diverse  
24 background, and I feel that I have that background. Even though  
25 the primary function of prisons is to retain those who are  
26 admitted by the courts in a secure manner, there are many other  
27 things that must take place also to ensure that the institution  
28 runs smoothly. I would like to cover some of these things, if I



1 may.

2 Academic and vocational education, religious  
3 programs, Narcotics Anonymous, and Alcoholics Anonymous, and  
4 victims' programs. Our education program at CSP, Sacramento  
5 offers classes from ABE level 1 through 3; GED prep; GED; high  
6 school, and English as a second language.

7 Our vocational program offers 15 different vocations.  
8 All of those lead to certification.

9 In April of '93, the Granite Adult School was granted  
10 the maximum 6-year accreditation from the Western Association of  
11 Schools and Colleges. This accreditation is only given to the  
12 schools that are in full compliance, and we got the full maximum  
13 six years.

14 We have a very active PIA program, and they offer  
15 lots of trades in that particular area.

16 In compliance with Proposition 139, we have a very  
17 active joint venture program. Last year, we donated \$21,000 to  
18 the victims' programs. In addition, we also donated 100 quilts  
19 through the Child Protective Services to the youth in the  
20 Sacramento area.

21 We also have a very active Arts in Corrections  
22 program that offers programs in drawing, music, and writing. We  
23 feel that the arts teach self-esteem.

24 These are just a few of the things that are taking  
25 place at Sacramento State -- at California State Prison,  
26 Sacramento. The operation is running well, and I feel with your  
27 support, it will continue to do so.

28 CHAIRMAN ROBERTI: Thank you very much, Mr. Smith.





1           Is there anyone here in support? Please come  
2 forward.

3           MR. RALPH: This is my last time today.

4           Mr. Chairman and Members, again, we are here. I'm  
5 here representing the Association of Black Correctional Workers,  
6 and we endorse and support this nomination of the Governor for  
7 confirmation.

8           He, too, has, from all that we have learned in  
9 garnering, trying to garner from our membership as much as we  
10 can, any comments, feedback has been very positive.

11           In closing, I just want to say, Mr. Chairman and  
12 Members, as a former Member of this body, there have been times  
13 in the past when I've been concerned about some things that have  
14 occurred, but I think this process of confirmation of  
15 gubernatorial appointees really is a very healthy process. It  
16 enables those who work under gubernatorial appointees an  
17 opportunity to voice any abuses, or any concerns, any lack of  
18 sensitivity. I'm very happy that we don't have any to report in  
19 this case, but I really applaud you and your leadership, and the  
20 Members of this Committee, in the direction and the way that  
21 you've conducted this process. I think it makes all of us feel  
22 a little better at night.

23           CHAIRMAN ROBERTI: Thank you very much, Bishop, and I  
24 appreciate your words, especially in that regard because I  
25 really do feel that the confirmation process has helped us bring  
26 to the front problems that would exist in state prisons probably  
27 regardless of wherever they were located. It helps us come up  
28 with administrators who can address those problems.





1 So, I appreciate your remarks.

2 MR. RALPH: Thank you, sir.

3 CHAIRMAN ROBERTI: Senator Petris.

4 SENATOR PETRIS: Mr. White, where is this Sacramento  
5 facility and when was it opened?

6 MR. WHITE: Actually, it was opened in '86. It  
7 previously was New Folsom. It's adjacent to the old prison.

8 SENATOR PETRIS: So it's actually at Folsom?

9 MR. WHITE: Yes, sir.

10 SENATOR PETRIS: But it's called Sacramento.

11 MR. WHITE: Yes, Sacramento. California State  
12 Prison, Sacramento.

13 SENATOR PETRIS: Is it in Sacramento, or is it in  
14 Folsom?

15 MR. WHITE: It's in Sacramento County.

16 SENATOR PETRIS: County, okay.

17 MS. MICHEL: They split Folsom: Old Folsom and New  
18 Folsom.

19 MR. WHITE: Yes. CSP, Sacramento, is the Level IV  
20 site now.

21 SENATOR PETRIS: Thank you.

22 CHAIRMAN ROBERTI: Any other questions?

23 Support, please come forward.

24 MS. KIRSHNER: I'm Cynthia Kirshner, and I spoke to  
25 this panel two years ago, when Mr. Gomez was confirmed.

26 I'm here to tell the panel that Folsom has improved  
27 100 percent. With the appointment of Teresa Rocha, it gave them  
28 a big shot in the arm because -- they didn't even like the women



1 there, let alone have the Warden be one. So, I'm in support of  
2 her, also.

3           Theo White worked at Folsom, and he had quite a good  
4 reputation before he left. He went down and he worked at  
5 Blythe, and everybody was so happy to have him come back. And I  
6 didn't have the opportunity to meet him in his first time  
7 around, but I had the opportunity to meet him after he was  
8 appointed as the Warden at the prison.

9           Theo White is a very -- he -- I don't know. When you  
10 walk in the Admin. Building, it's, oh gosh, how can I say it?  
11 People are happier there, you know. It's an open, friendly  
12 place. I know if I had the same problem I had three years ago,  
13 that I could go and talk to him or Ms. Rocha, and it wouldn't  
14 have gone on for the period of time that it did go on.

15           That car, the good ol' boys and the Untouchables,  
16 hey, they cease to exist. They're gone. Now we have an  
17 administration that are people, just like us. They're no  
18 better; we're a team. And I see that team work as each day goes  
19 by.

20           We have a new Chapter President at Folsom Prison, and  
21 I think that that's going to be a plus to keep the  
22 administration and our union building as a family also.

23           You've made a good choice, and I'm so happy that  
24 Teresa was confirmed, and I hope that you confirm Mr. White  
25 also.

26           CHAIRMAN ROBERTI: Thank you very much. It's good to  
27 hear from you.

28           Is there anyone here in support or in opposition?



1 Do I hear a motion?

2 SENATOR BEVERLY: Move we recommend confirmation.

3 CHAIRMAN ROBERTI: Senator Beverly moves confirmation  
4 be recommended to the Floor.

5 Secretary will call the roll.

6 SECRETARY WEBB: Senator Ayala.

7 SENATOR AYALA: Aye.

8 SECRETARY WEBB: Ayala Aye. Senator Beverly.

9 SENATOR BEVERLY: Aye.

10 SECRETARY WEBB: Beverly Aye. Senator Petris.

11 SENATOR PETRIS: Aye.

12 SECRETARY WEBB: Petris Aye. Senator Craven.

13 Senator Roberti.

14 CHAIRMAN ROBERTI: Aye.

15 The vote is four to zero; confirmation is recommended  
16 to the Floor.

17 Congratulations.

18 MR. WHITE: Thank you.

19 [Thereupon this portion of the  
20 Senate Rules Committee hearing  
21 was terminated at approximately  
22 3:02 P.M.]

23 --oo0oo--  
24  
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28





CERTIFICATE OF SHORTHAND REPORTER

I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 6<sup>th</sup> day of January, 1994.

  
EVELYN J. MIZAK  
Shorthand Reporter





**242-R**

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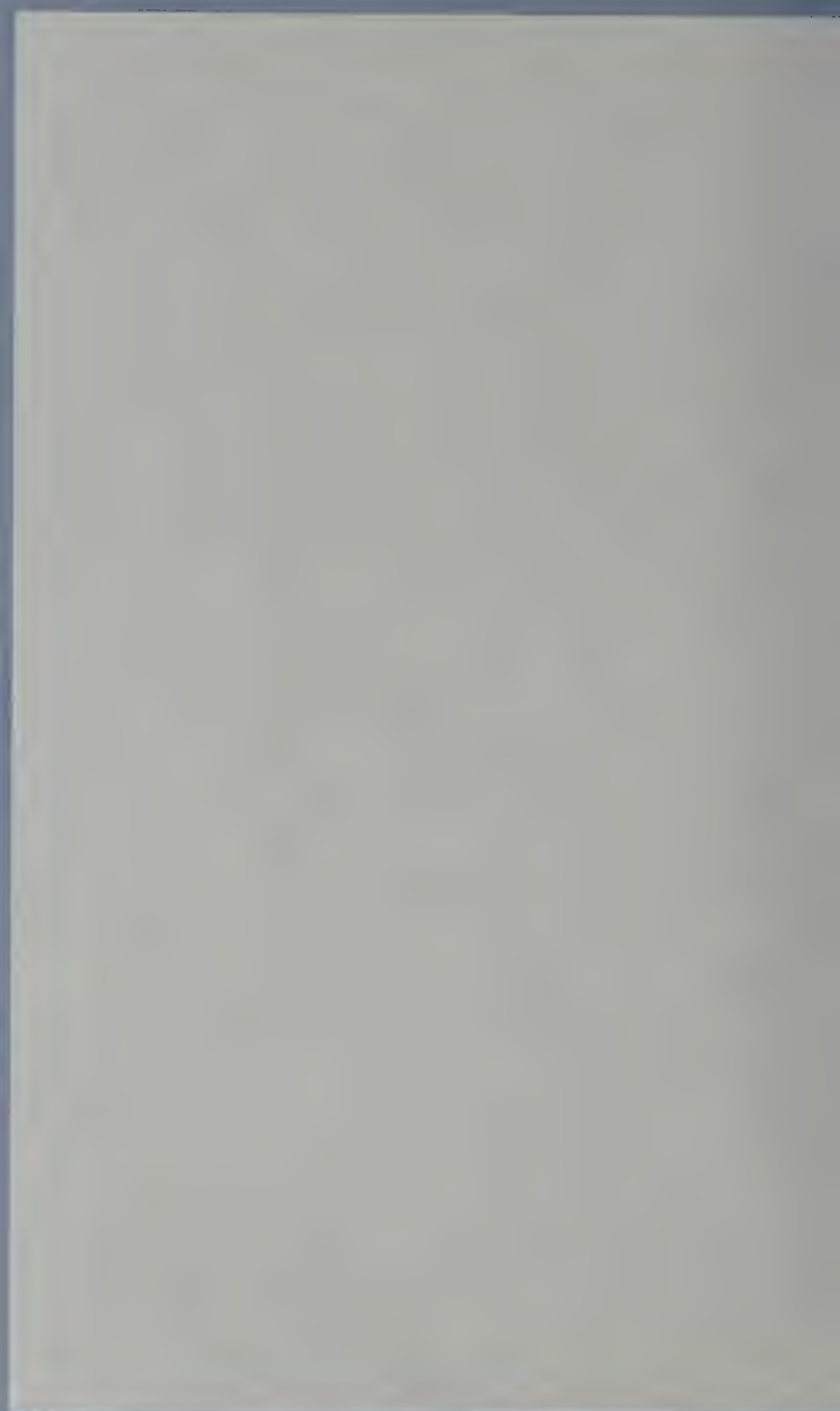


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28 Shorthand Reporter



APPEARANCESMEMBERS PRESENT

SENATOR DAVID ROBERTI, Chair

SENATOR WILLIAM CRAVEN, Vice Chair

SENATOR RUBEN AYALA

SENATOR ROBERT BEVERLY

SENATOR NICHOLAS PETRIS

STAFF PRESENT

CLIFF BERG, Executive Officer

PAT WEBB, Committee Secretary

RICK ROLLENS, Consultant on Bill Referrals

NANCY MICHEL, Consultant on Governor's Appointments

ALSO PRESENT

SANDRA R. SMOLEY, Secretary  
Health and Welfare Agency

S. KIM BELSHE, Director  
Department of Health Services

BRAD GILBERT, President  
California Conference of Local Health Officers

LAURIE McBRIDE, Executive Director  
Life AIDS Lobby

BETH CAPELL  
California Nurses Association

JOHN DUNN-MORTIMER  
AIDS Project Los Angeles

KEN MSEMAJI  
United Domestic Workers of America

STEVEN THOMPSON  
California Medical Association



APPEARANCES (Continued)

DENNIS FLATT  
Kaiser Permanente

ROBERT MARSHALL, Chief Executive Officer  
California Pharmacists Association

E.B. (Soap) Dowell, Member  
Major Risk Medical Insurance Board

DOUG HITCHCOCK, Executive Vice President  
California Association of Hospitals and Health Systems

JAMES W. MORGAN, Government Relations Manager  
CIBA Pharmaceuticals

BOBBI FIEDLER, Member  
California State Lottery Commission

JULIAN M. MARQUEZ, Warden  
Chuckawalla Valley State Prison  
California Department of Corrections

JEFF THOMPSON  
California Correctional Peace Officers Association

FRANK R. SEARCY, President  
Chicano Correctional Workers Association

SPEAKER WILLIE BROWN

SENATOR PAT JOHNSTON

WILLIAM HAUCK, Member  
Trustees of the California State University

JOAN OTOMO-CORGEL, Member  
Trustees of the California State University

ROSEMARY E. THAKAR, Member  
Trustees of the California State University

WILLIAM D. CRIST, Chairman  
Political Action Legislative Committee  
California Faculty Association

JOHN T. KNOX, Member  
Board of Directors  
Hastings College of the Law

ANA M. OLIVAREZ, Warden  
Deuel Vocational Institution  
California Department of Corrections





APPEARANCES (Continued)

JIM WARE

Association of Black Correctional Workers

ANA MARIA ORTEGA, Former Employee  
Department of Finance



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## P-R-O-C-E-E-D-I-N-G-S

--oo0oo--

CHAIRMAN ROBERTI: Ms. Sandra Smoley, Governor's appointee for Secretary of Health and Welfare Agency, has flown up here today from Los Angeles due to the earthquake and has to get back.

So, why don't you come forward and we'll take you up.

MS. SMOLEY: Thank you very much. Hello again.

CHAIRMAN ROBERTI: Again. You've been here within a year on your former position.

MS. SMOLEY: Yes, right.

CHAIRMAN ROBERTI: We'll ask you the same question, why you feel you're qualified to assume this position?

MS. SMOLEY: Well, I'm a registered nurse by profession, and I've been interested in health and welfare issues all the time that I was on the Sacramento County Board of Supervisors for 20 years and administered the state programs in health and welfare.

And so, I feel that I am eminently qualified because of an understanding of the whole programs, and the budgeting, and the relationship between state and local government.

CHAIRMAN ROBERTI: Thank you very much.

Are there any questions of Ms. Smoley?

Let me ask you, since I know your current line of duty is with the devastating earthquake in the San Fernando Valley and general areas, can you just roughly tell me what is the medical program that has been put into place? I've been into parts of my district, and it's just one thing they're very,



1 very concerned about are the lack of pharmaceuticals being  
2 available, among --

3 MS. SMOLEY: Among so many.

4 It's been just an unbelievable situation. We had 14  
5 health facilities, including hospitals, that were affected.  
6 I've been down there on the spot with the people from OSHPAD,  
7 Office of Statewide Health Planning, and Department of Health  
8 Services so that we could cut through the red tape and get them  
9 some changes that they needed to do.

10 We've been very, very successful in that, and I think  
11 the hospitals and facilities are very, very happy with what  
12 we've done. We've had Holy Cross now is up and running, and I  
13 understand in the pharmaceutical area, because I first-hand saw  
14 pharmaceuticals all over the floor, pharmacy companies are very,  
15 very good about giving them --

16 CHAIRMAN ROBERTI: Replenishing it.

17 MS. SMOLEY: Yes, replenishing it.

18 There are still a lot of things. That's why I feel I  
19 need to be down there so that we can immediately, on the spot.  
20 But things are moving well. Unbelievable stories. Doctors,  
21 nurses, just working like crazy under unbelievable conditions.

22 And things are getting back together, and we're kind  
23 of just being as supportive as we possibly can.

24 CHAIRMAN ROBERTI: How many fewer beds do we have  
25 now?

26 MS. SMOLEY: Well, St. John's is totally closed down.  
27 There still seem to be ample beds. That really is not an issue  
28 right now.





1           They sent a lot of people home. Like newborn babies  
2 with mothers up to four hours' old, they sent them home. They  
3 dismissed every patient that they could. Sent some to skilled  
4 nursing facilities; sent some to other hospital facilities.

5           I have, Senator, in the works right now a complete --  
6 what we've done; what our plan is for the future. I plan to  
7 send it to you and all the people that represent that area to  
8 keep you abreast of exactly what we're doing at every time.

9           And, you know, if you have suggestions, or want us to  
10 do something, I'm more than willing to do that.

11           That is in the typewriter as we speak, so that you  
12 will have a complete understanding of what's happened. I get a  
13 daily update from OSHPAD as far as what the facilities are, what  
14 their needs are, and we're doing very fast response to that.

15           CHAIRMAN ROBERTI: Very good.

16           There's some areas where the people don't have,  
17 because of the earthquake or because of economic circumstances,  
18 don't have access to transportation. Maybe if we could create a  
19 methodology where we could bring the units to them, if it's  
20 possible.

21           MS. SMOLEY: A mobile unit.

22           CHAIRMAN ROBERTI: Mobile units, yes. It might not  
23 be so bad, at least in these next couple of weeks.

24           MS. SMOLEY: You know, one of the things that  
25 happened were, the doctors' offices around hospitals don't have  
26 the same earthquake standards, and they were really trashed with  
27 a lot of the records. So what we've done is, assign rooms in  
28 the hospital for the doctors to see patients in the hospital.



1 That took a special dispensation.

2 So, we're trying to make things work under those  
3 circumstances, but that's a good suggestion. I'll look into  
4 that and get right back to you.

5 CHAIRMAN ROBERTI: Thank you very much.

6 MS. SMOLEY: You're welcome.

7 CHAIRMAN ROBERTI: Senator Petris.

8 SENATOR PETRIS: Hi, welcome.

9 MS. SMOLEY: Hello.

10 SENATOR PETRIS: It's good to see you again.

11 MS. SMOLEY: Thank you very much.

12 SENATOR PETRIS: I have some questions in a couple of  
13 areas.

14 MS. SMOLEY: Okay.

15 SENATOR PETRIS: The Governor, I think, deserves a  
16 tremendous amount of praise for his prevention. His emphasis in  
17 his very first year was programs of prevention, hence the  
18 preschool stuff and the school thing --

19 MS. SMOLEY: Healthy Start.

20 SENATOR PETRIS: -- Healthy Start and so forth.

21 But it presents kind of an ironic dilemma for me  
22 because, on the other hand, he's had a lot of cuts to the AFDC  
23 program, and this year he's proposing more. That hits the same  
24 people he's trying to help with these other programs.

25 If the current recommendations of the Governor are  
26 adopted and the cuts are made, a family of three in that  
27 situation will have only 57 percent of the purchasing power they  
28 had in 1989-90. That seems to be working at cross purposes with



1 ourselves. To me, it just doesn't seem the right way to go.

2 Would you comment on that?

3 MS. SMOLEY: Yes. First of all, I would like to say  
4 that California is very high as far as the dollar amount that we  
5 have in grants. We are presently 4th. If we make a 10 percent  
6 cut, that would put us at 9th. If the other 15 percent goes in  
7 after the six months, we would still be at 12th in the nation as  
8 far as the level of allocation is concerned.

9 What we have also done is put more money into the  
10 GAIN program, which is the job training program for welfare  
11 people. And what we are seeing is that if we're really active  
12 in GAIN and do public-private partnerships as far as developing  
13 programs for getting people back at work, what we're seeing is,  
14 if we train them and we are now -- last year, you know, you put  
15 into effect some wonderful things in AFDC where they can keep  
16 some of the money if they work on the side, where before, they  
17 would lose that. We also allow them to have more equity in a  
18 car, and also day care is being taken care of for working moms.

19 So, we think that it will be offset by what they're  
20 able to keep with a job, and that will make up for the  
21 difference in the grant.

22 I think the Governor's philosophy is to say that  
23 welfare should not be a lifetime thing; that our side of it is  
24 to get people trained and find the jobs for them, but the  
25 recipients' side is for them also to go back to work. And we're  
26 talking able-bodied, not anybody -- you know, no children's  
27 services and not anybody that is in any way infirmed or  
28 disabled.





1           SENATOR PETRIS: Well, that's all very well. It just  
2 kind of echoes the same thing we've been saying for years: get  
3 these people back to work.

4           In a recession, they're the least able to get a job  
5 because there are other people who have a longer record of job  
6 experience waiting in line ahead of them.

7           In the meantime, in spite of the figures you quote,  
8 we do know that, take children under the age of 18 in  
9 California, 25 percent of them now live below the poverty level.  
10 Just three years ago, it was at 15 percent. That figure is  
11 growing.

12          And all the reports that we've had on children make  
13 us ashamed of how we've neglected our children: how many are in  
14 poverty; how many are in other problems.

15          Cutting into grants, even though some of it might be  
16 made up, just seems to me kind of a cruel way to go.

17          Now, if you rank us on a national scale, we also have  
18 to show what our living expenses are. Sure, we might be pretty  
19 high in the amount on the scale, but it costs more to live here.  
20 Everything costs more. I was reminded the other day that in San  
21 Francisco, we have the highest paid cabbies in the country,  
22 including New York.

23          MS. SMOLEY: Really?

24          SENATOR PETRIS: Yes, they make more money in San  
25 Francisco. Everybody makes more money here, but they all spend  
26 more money, too, just to stay alive, you know.

27          So, I'm not persuaded by the national listing. It  
28 doesn't always give us the full picture.



1 But you are talking about training and jobs. What  
2 are the realistic prospects of job placement?

3 MS. SMOLEY: I'll tell you, some of the GAIN stories  
4 are really fabulous. They have a wonderful one in Riverside,  
5 where the people actually go out and find five job  
6 opportunities, come back and share them. And it's really almost  
7 like a contest, and they really are working hard at it.

8 It's extremely successful. Their whole MO is that  
9 working pays; getting a job is good. They've been extremely  
10 successful.

11 I'd like to take that program to all GAIN programs  
12 because of its success.

13 And we feel that with that success, and they've  
14 gotten jobs and kept the jobs, that that will offset the cuts in  
15 the grants.

16 SENATOR PETRIS: Do you have any numbers to show us  
17 from that particular project?

18 MS. SMOLEY: I could send them to you, and I'd be  
19 glad to do that.

20 SENATOR PETRIS: Either numbers or percentage of  
21 those who when through and managed to get a job, and kept it for  
22 whatever period of time.

23 MS. SMOLEY: Glad to do that.

24 SENATOR PETRIS: I'm still bothered by the fact that  
25 with the recession and the earthquake, where you've been working  
26 so valiantly since it happened --

27 MS. SMOLEY: Thank you.

28 SENATOR PETRIS: I commend you for that.



1 MS. SMOLEY: Thank you.

2 SENATOR PETRIS: It seems to have a double whammy  
3 impact on the victims. And if we cut AFDC, we also get less  
4 federal money coming in.

5 MS. SMOLEY: That's corrected.

6 SENATOR PETRIS: Has that been corrected?

7 MS. SMOLEY: Yes, that does not -- that money has run  
8 out, so that's not an issue here.

9 SENATOR PETRIS: We're not getting it anyway.

10 MS. SMOLEY: No.

11 SENATOR PETRIS: Poor way to resolve that issue;  
12 isn't it.

13 Let me turn to health care. Are you going to be  
14 playing a role in advising the Governor on health care?

15 MS. SMOLEY: Yes, I am.

16 SENATOR PETRIS: I'm puzzled by the Governor's policy  
17 on health care.

18 We had a pretty good bill last year by Senator  
19 Torres, SB 6. It was vetoed. A lot of the elements in SB 6 are  
20 being used in the Clinton proposal. The Governor is opposed to  
21 the Clinton proposal.

22 I had a bill, a single pay, which I think is the  
23 greatest health care bill that's come down the pike.

24 [Laughter.]

25 SENATOR PETRIS: Which he commented on early on and  
26 said: if that kind of bill gets to my desk, I veto it.  
27 Automatically lost all the Republicans votes I had, which was  
28 about zero to begin with, but anyway, that firmed them up.





1           So, we don't have a universal health care program  
2 coming from the Governor. The only thing I've seen from the  
3 Governor is reaction to other plans that he didn't like. I  
4 don't see him coming forward and having our state try to add  
5 whatever we can add to solving the overall health care problem.

6           Now, does that mean he's waiting to see what happens  
7 with Congress with the major proposal of the President, or is he  
8 preparing some other plan? And if so, are you going to be  
9 helping him with it?

10           MS. SMOLEY: First of all, there are some parts of  
11 the Clinton plan that the Governor does like: pooling  
12 mechanisms. He likes the tort reform aspects. There are a lot  
13 of parts, and he has congratulated the President many times on  
14 bringing this matter forward so that it's a public debate. So,  
15 there are some parts of it.

16           His concern in the Clinton plan is the employer  
17 mandate, the concern being that we already have so many  
18 pressures on small businesses, who are the ones that make up or  
19 create about 80 percent of the jobs in the State of California.  
20 And all he's saying is, if he goes out -- and we're working with  
21 Red Teams to try to retain businesses here, go outside the state  
22 and bring businesses here, then if we put an employer mandate on  
23 them, it could be the death knell to put them out of business.

24           His number one issue is jobs, because if somebody has  
25 a job, they have a shot at being able to afford better health  
26 care.

27           We are moving Medi-Cal patients into managed care.  
28 That's one of the proposals. And many of the things that we



1 have done, like HIPC, Health Insurance Plan of California, is  
2 something that the federal government is really looking at. I  
3 feel that we're quite ahead in many instances, managed care  
4 being one, HIPC being another, that the federal government is  
5 looking at as a possibility for direction to go.

6 But I will be involved with that. We have a  
7 committee already looking at the Clinton health plan, analyzing  
8 it as to its effect on California. I would say this: the  
9 possibility of some job loss could be a problem. They were  
10 saying in one report 80,000 jobs in California. And the  
11 employer mandate are the two things he continues to show  
12 concern, but he has not taken the position to say, "I'm opposed  
13 to the whole Clinton plan."

14 I think the debate is still out there. We will be  
15 having a lot of debate on this issue, especially here in  
16 California.

17 SENATOR PETRIS: Well, I'm glad the door's still  
18 open.

19 MS. SMOLEY: It is.

20 SENATOR PETRIS: I don't favor mandating an employer.  
21 I think that's an unfair way to go.

22 In my bill, and I'm not here to, you know, get a vote  
23 on my bill, but we didn't mandate the employer to do anything  
24 other than everybody else. Everybody pays a tax, and everybody  
25 receives the benefits. So, the employer pays his share of the  
26 tax; he walks away from it at a level below what they're paying  
27 now. A smaller percentage of the payroll would be paid under my  
28 plan.



1           Moreover, the employer's relieved of the burden,  
2 actually the bigger one, of dealing with maybe two, or three, or  
3 four separate labor unions with a contract for each of them,  
4 which results in California, in the last several years, five out  
5 of six of our strikes have centered on health care. It doesn't  
6 belong on the employer's table. That should be done by all of  
7 us, to take care of everybody, and we all pay. I want to  
8 emphasize that. We all pay in, and we all get the benefits.

9           So, I'm not an employer mandate person. I wouldn't  
10 mandate the employer any more than we're doing for every one of  
11 us. We're all going to pay in.

12           Well, I guess we'll have to talk about that some  
13 more, since you're going to be working --

14           MS. SMOLEY: And please feel free. You know, I'm  
15 open to have your calls, and we'll talk about anything you wish  
16 to talk about.

17           SENATOR PETRIS: One last area is realignment. It's  
18 a tough area, and we went a long ways last year, too, to try to  
19 do things. But we've had some pains expressed by the counties  
20 that funding hasn't kept up with the change in duties, and so  
21 forth.

22           Are you going to be working on that also?

23           MS. SMOLEY: Yes. As a matter of fact, part of that  
24 came out of the Local Policy Council, which I sit on, and  
25 Finance Director Russ Gould sits on, also ex-Mayor of Modesto  
26 Carol Whiteside. And we've been working with counties and local  
27 governments, basically saying how can we restructure; how can we  
28 fix the relationship between state and locals.





1 I will be working on it. A lot of the ideas came out  
2 of counties and cities. We set up committees, and this is a  
3 structure that's a result of that. There's a lot of debate  
4 still to go on as to how to accomplish that. It's really a  
5 building on what we did last year in the first realignment try,  
6 and basically it's with no more money going to counties, no  
7 money in the budget to do that, how can we make our relationship  
8 better? How can we make it more flexible, give counties more  
9 say into what happens at home? Give them incentives to save  
10 money, and then allow them, in the saving, to keep the money.  
11 Allow them to move money from program to program; basically the  
12 flexibility that counties have wanted.

13 And so, I will be -- I'm intimately involved in that,  
14 because I really care about what happens to counties; obviously,  
15 I have 20 years invested at that.

16 SENATOR PETRIS: I know you bring a lot of the county  
17 problems.

18 Thank you, Mr. Chairman.

19 CHAIRMAN ROBERTI: Thank you very much, Senator.

20 Senator Ayala.

21 SENATOR AYALA: To follow-up on Senator Petris's line  
22 of questioning.

23 Secretary Smoley, some critics argue that the  
24 administration's current state and local government realignment  
25 proposal puts the counties financially at risk for programs that  
26 they have little control over, such as Medi-Cal, and AFDC.

27 As the current Secretary of Health and Welfare, and  
28 former Supervisor, how do you respond to those criticisms?



1 MS. SMOLEY: You know, I have to be honest with you  
2 that the counties are a little afraid of the state. You know,  
3 when we start saying we want to make things better for you, and  
4 they say, "Yeah, right."

5 But I will say this, that I feel very strongly that  
6 we need to do something to realign. What's built into that  
7 restructuring is about \$700 million over what the programs  
8 actually cost. And it is viewed to be revenue neutral. It is  
9 viewed to not solve the state's budget process. And that's what  
10 I think is very important as far as a sell is concerned. This  
11 is not the state trying to balance it's back [sic] on the backs  
12 of counties.

13 And as a result of that, I think it has a shot at  
14 passing because it is a good government restructuring proposal  
15 rather than a balanced budget proposal by the state.

16 SENATOR AYALA: Did you feel that way when you were a  
17 Supervisor?

18 MS. SMOLEY: Yes. You know, these ideas are coming a  
19 lot from me. If you don't like it, blame me, because I worked  
20 very hard in those areas, and I have a lot of friends still in  
21 the County Supervisors, and I say, "Tell me what you want to  
22 happen to make your life better." And this is the result of  
23 that.

24 It's not unanimity, but I'll tell you, the Supes are  
25 saying, "Hey, this is a thing to look at." They're saying it  
26 because a county can save money in a program. They used to have  
27 to return it to the state, and it would go to pay for a county  
28 that wasn't doing a good job, and they didn't get the results of



1 them being better at providing the service.

2 SENATOR AYALA: You're saying that CSAC's fears are  
3 unfounded?

4 MS. SMOLEY: No, no. CSAC's fears are -- they aren't  
5 expressing a lot of concerns. They -- we've been meeting with  
6 them right along, and they're saying, "Hey, this is something to  
7 look at."

8 SENATOR AYALA: Thank you.

9 CHAIRMAN ROBERTI: Thank you very much, Senator.

10 Any other questions? Any observations?

11 Is there opposition in the audience?

12 SENATOR CRAVEN: Move Ms. Smoley.

13 CHAIRMAN ROBERTI: Senator Craven moves Ms. Smoley's  
14 confirmation be recommended to the Floor.

15 Secretary will call the roll.

16 Senator Petris.

17 SENATOR PETRIS: I had a motion.

18 When we met yesterday, I forgot to tell you, and I  
19 apologize.

20 I'd like to move that we put over the vote and maybe  
21 a limited hearing so that our new Pro Tem, who's going to be  
22 working with her and appointees coming in, will have a chance to  
23 take part either in questions or the vote itself.

24 CHAIRMAN ROBERTI: I don't have a problem with that.  
25 I don't know if Ms. Smoley does.

26 MS. SMOLEY: Do I have a choice even if I did? My  
27 life is in your hands.

28 CHAIRMAN ROBERTI: We're in an awkward position, as





1 you all may know. This is, I think, my last meeting as the  
2 Chairman.

3 However, traditionally in the House, if a Member asks  
4 for it to be put over, we put it over.

5 MS. SMOLEY: Senator Petris, would you like to  
6 reconsider?

7 [Laughter.]

8 SENATOR PETRIS: Well, let me tell you, there's  
9 nothing on the horizon that I know of that's going to be  
10 opposing your appointment.

11 I think it's only fair, as important an appointment  
12 as this. You're going to be working with the Pro tem, whether  
13 it's the present one or the new one. Since he approves this  
14 motion, I think it would be prudent to go along with it. You  
15 can impress him all over again, as you've impressed us. I don't  
16 see any problem.

17 It's not intended to be negative toward you at all.  
18 You know my feelings; I've expressed them more than once.

19 But I do feel that the new Pro Tem -- and I intend to  
20 do it on one or two other appointments as well -- should have a  
21 role in this process.

22 I think it'll be beneficial. You'll find it'll be  
23 helpful to you anyway.

24 I assure you, it's not done for the purpose of any  
25 negative --

26 CHAIRMAN ROBERTI: What Senator Petris is saying, I  
27 think you've been an outstanding Director of Health, and I don't  
28 know of any adverse comment on the operation of your office, or



1 the Agency, for that matter.

2 MS. SMOLEY: Thank you.

3 CHAIRMAN ROBERTI: In fact, only praise.

4 MS. SMOLEY: The thing that I would say to you is,  
5 it's great to get into the job and keep on rolling, you know.  
6 And this is a little bit of a distraction, I would say.

7 CHAIRMAN ROBERTI: It's a distraction, and I don't  
8 know what to tell you.

9 The Membership of the House has to work with you.  
10 The fact of the matter is, we've always honored a put-over  
11 request.

12 MS. SMOLEY: I'm not going to argue that. I have  
13 visited with all the 40 Senators.

14 CHAIRMAN ROBERTI: I will not be without some  
15 influence in the House anyway, and I assure you, I am putting  
16 this over with the full anticipation you're going to be  
17 confirmed.

18 MS. SMOLEY: That's fine. What can I say?

19 SENATOR PETRIS: That includes my vote as well.

20 SENATOR BEVERLY: We've always acceded to a Member in  
21 the Rules Committee request to put a matter over.

22 You don't intend to do that on all of them, or do  
23 you?

24 SENATOR PETRIS: No, some; not all.

25 MS. SMOLEY: Do I thank you for the pleasure of being  
26 one of them?

27 [Laughter.]

28 SENATOR PETRIS: Yeah, long run, I think.



1 MS. SMOLEY: All right, great. That's fine.

2 SENATOR PETRIS: You don't have to do it now.

3 CHAIRMAN ROBERTI: Thank you very much, Ms. Smoley.

4 MS. SMOLEY: I'd just like to say thank you in your  
5 years of service, Senator.

6 CHAIRMAN ROBERTI: Thank you very much.

7 MS. SMOLEY: And I appreciate your years as Pro Tem,  
8 and congratulate you on that. I'd like to say, I appreciate  
9 what you've done for the people of California.

10 CHAIRMAN ROBERTI: That's very thoughtful, and those  
11 are very nice words. I appreciate it.

12 SENATOR CRAVEN: Mr. President.

13 CHAIRMAN ROBERTI: Senator Craven.

14 SENATOR CRAVEN: I understand what Senator Petris is  
15 doing. I think it's very nice, although I don't think it's  
16 necessary.

17 I think if you're going to do it for one, you might  
18 as well do it for all of them. Why should you single out one  
19 person?

20 And I'm willing to stipulate that she has no trouble  
21 being confirmed. That's fine.

22 But, you know, the new President Pro Tem has to live  
23 with all of the things that have been laid down by this  
24 Committee for years and years and years, and taking it over  
25 without having had this input into it, to me, is not going to  
26 make one whit of difference to him.

27 CHAIRMAN ROBERTI: I appreciate your comment.  
28 Nobody's asked for that, so unless you want to have 18





1 confirmations next week, I would suggest that we not do that.

2           SENATOR CRAVEN: Well, I mean, why should we  
3 automatically tell people, "You're not so very important," and  
4 then single out someone and say, "You're very important"?

5           CHAIRMAN ROBERTI: No, we're talking in this case an  
6 agency and a director of the two agencies that work intricately  
7 with the Legislature.

8           I don't want to defend the request, necessarily, but  
9 there is a distinction that can be made.

10           Thank you very much, Ms. Smoley.

11           MS. SMOLEY: That's fine. Thank you very much.

12           CHAIRMAN ROBERTI: The appointment of S. Kim Belshe,  
13 Director of Health Services, I would suspect, is the other one.  
14 Why don't you come forward and tell us a little bit about  
15 yourself and why you feel you're qualified to assume this  
16 position?

17           MS. BELSHE: Thank you, Senator Roberti.

18           Listening in the audience, I had a sneaking suspicion  
19 I may be number two.

20           And if you might indulge me to take a few more  
21 minutes than Secretary Smoley did in terms of introducing myself  
22 to some of the Members of the Committee with whom I have had  
23 some opportunity to work, and to say to start, as a fifth  
24 generation Californian, I'm extremely proud and honored to have  
25 an opportunity to serve our state in such an important position  
26 as this.

27           I believe that my professional experience, founded  
28 upon a strong academic background, has really prepared me well



1 to serve the state in this position. Prior to returning home to  
2 California to join Governor Wilson's administration, I was his  
3 primary advisor on health and aging issues in the United States  
4 Senate. In that capacity, I had an opportunity to work with  
5 many of the health care providers in California, as well as the  
6 many public health constituencies, on a variety of important  
7 pieces of federal legislation and policy in such areas as AIDS,  
8 breast cancer, cervical cancer, long-term care financing, and  
9 perinatal substance abuse. These are priorities and issues that  
10 I brought with me to Sacramento.

11 As you know, for the past three years, I served as  
12 the state's Deputy Secretary for the Health and Welfare Agency,  
13 which oversees 13 departments, one of which is the Department of  
14 Health Services. And in that capacity, I've had a chance to  
15 work closely with departments, as well as with the Legislature,  
16 to help shape and form many important initiatives over the  
17 course of the past three years.

18 For example, the Governor's -- I played a primary  
19 role in the development and the implementation of Governor  
20 Wilson's prevention agenda, efforts in promoting access to  
21 health care for uninsured low-income women and their newborns,  
22 efforts to reform our small group insurance market, and  
23 important efforts to protect and promote public health programs.

24 I think as Deputy Secretary, I have developed a  
25 reputation of forging consensus around difficult public health  
26 and health care problems in the context of limited resources and  
27 rising needs, and I think I've developed a reputation for  
28 openness, accessibility, cooperation and integrity. My





1 priorities, focus, and accomplishments as Deputy Secretary, I  
2 believe, are indicative of the type of Director of the  
3 Department of Health Services that I hope to be.

4 One area where some have questioned my commitment to  
5 public health is tobacco control. My commitment has been  
6 questioned as a result of the public affairs work I did for a  
7 coalition opposed to Proposition 99 while employed by a public  
8 affairs firm shortly after graduate school. At that time, I was  
9 representing a client and argued against Prop. 99 as a tax  
10 initiative and as another example of ballot box budgeting. At  
11 that time, I personally viewed the initiative from that  
12 perspective, and thus, was not uncomfortable arguing from that  
13 perspective.

14 Since that time, however, I have come to view the  
15 initiative more broadly; not just as a tax initiative, but as a  
16 proposal that really can, and indeed has had a significant  
17 impact on changing behaviors.

18 I would hope that the test of my commitment to these  
19 important issues of educating the public about the adverse  
20 effects of smoking, combating the problem of second-hand tobacco  
21 use, and of reducing the overall prevalence of tobacco use in  
22 our state, would be judged based upon my record as Deputy  
23 Secretary of the Agency. And I believe in that regard it's  
24 indicative of the views I bring as Director.

25 I was a strong proponent of the Governor's Executive  
26 Order to ban smoking in all state buildings and his signature on  
27 subsequent legislation to that effect. I also strongly  
28 advocated the Governor's signature on recent legislation to





1 increase the tobacco tax to fund some vitally needed services in  
2 the area of breast cancer prevention and screening. And I have  
3 been a proponent of the array of nationally recognized and very  
4 successful Prop. 99 supported programs.

5 Looking to the future, my priorities are clear. Let  
6 me touch on them just very quickly.

7 First and foremost, to expand access by emphasizing  
8 managed care and coordinating services for our children and  
9 their families.

10 Number two, to emphasize prevention and the early  
11 detection of health problems.

12 Number three, to promote and to strengthen public  
13 health.

14 And finally, as Secretary Smoley noted, the important  
15 role of responding to the Clinton health plan.

16 I am extremely mindful of the challenging context in  
17 which we seek to accomplish initiatives in all of these areas.  
18 We are trying to balance increased demand for services at the  
19 same time that we have fewer public resources to pay for them,  
20 and we're working hard to respond to California's growing ethnic  
21 diversity, and the persistent gap in health status among our  
22 ethnic populations.

23 In my mind, very simply put, if we are to be  
24 successful at taking on these challenges, we simply must deliver  
25 services that make sense.

26 I would say in closing, I appreciate the opportunity  
27 to serve the Governor and the state in such an important  
28 position as this. I am proud of my accomplishments to date and



1 positions of responsibility on behalf of the people of  
2 California, and I think that working in partnership with the  
3 Legislature, we have made some important inroads in our effort  
4 to refocus government's orientation to prevention and to expand  
5 access to our most vulnerable populations.

6 I look forward to working with you, and to strive to  
7 fashion comprehensive and compassionate solutions to protect and  
8 promote the public health.

9 I welcome any questions.

10 CHAIRMAN ROBERTI: Thank you, Ms. Belshe.

11 Are there any questions? Senator Ayala.

12 SENATOR AYALA: Many Californians have expressed  
13 disappointment that the current administration has not  
14 aggressively pursued universal health coverage for California as  
15 an objective.

16 What are your views on the issue, and what do you  
17 propose to do about it as the State Health Director?

18 MS. BELSHE: Well, I think, as Secretary Smoley  
19 indicated, California, under Governor Wilson's leadership and  
20 the efforts of the Legislature, have taken a number of  
21 incredibly important steps in the direction of making health  
22 care coverage more affordable and more available.

23 I think the approach that Pete Wilson has promoted is  
24 an approach that has been extremely consistent with the very  
25 real budget realities we face, as well as the realities we face  
26 from the budget perspective. And in that regard, the Governor  
27 has focused on a couple of things.

28 First and foremost, the focus on prevention and the





1 need to extend access to priority populations, most notably  
2 children and women. And in that regard, we've seen a number of  
3 very significant new initiatives: Healthy Start, which is an  
4 effort to better coordinate services to families and children;  
5 and the whole effort to created expanded prenatal care programs  
6 for uninsured low-income women and their newborns.

7 What we've seen is a very targeted approach in terms  
8 of recognizing, to the extent we have limited resources,  
9 children and low-income women must be our first priority.

10 As a second step, the Governor identified the next  
11 priority population, if you will. And when you look at the  
12 individuals who are uninsured in California, roughly 6 million,  
13 up to 75 percent of those individuals are connected to small  
14 businesses, the groups that really have the hardest time  
15 accessing health care coverage that's affordable. And what  
16 resulted from that commitment was a very comprehensive series of  
17 reforms enacted by the Legislature that the Governor had  
18 proposed to effect underwriting reforms in the small group  
19 insurance market, and HIPC, which Sandy Smoley mentioned.  
20 That's the nation's first statewide purchasing pool.

21 The idea is very simple. Harness the purchasing  
22 power of small groups; give them the same leverage that a larger  
23 employer does. And what we found is the rates they've been able  
24 to negotiate are really quite extraordinary. They're up to 22  
25 percent below the CalPERS program, which is considered one of  
26 the most competitive pools in the country. That is an important  
27 step forward in terms of bringing down the cost of care without  
28 new taxes, without mandates to the small business community.





1           So, I think what you've seen is, the Governor put  
2 forward an approach that is consistent with our budget realities  
3 in terms of our not being in a position to dedicate a  
4 significant new amount of resources to our health care  
5 situation, but also a reality as it relates to the business  
6 climate in terms of the Governor's very real concern about  
7 imposing new obligations on the business community.

8           I think you've also seen the Governor's commitment,  
9 and I've played a role in all of this, to really re-fashion what  
10 we are doing with the state's public programs. You and I  
11 chatted a little bit yesterday, Senator, about the state's  
12 Medi-Cal program, and there's a perfect example of a program  
13 where we can be doing business a lot better. And indeed, the  
14 administration's been very committed to moving that program in  
15 the direction of managed care to get better bang for the buck,  
16 but most importantly, to ensure better access to services.

17           So, I think California justifiably can take  
18 considerable pride in a number of areas where we really are  
19 leading the nation and are laying the groundwork for whatever  
20 reforms ultimately come down the pike from Washington.

21           SENATOR AYALA: Could we blame the Clinton  
22 administration for aggressively attempting to address this  
23 issue, putting our policies on a holding pattern until we find  
24 out what they will finally do so we can move and not be in  
25 conflict with what they're trying to do in Washington?

26           MS. BELSHE: Well, I'm personally not terribly  
27 sanguine that we will see comprehensive universal reform out of  
28 Washington by this fall.



1           In my mind, the action in the near term continues to  
2 be in the states, and it's in states like California that are  
3 trying to move forward, albeit in an incremental manner, but in  
4 a manner that's consistent with the realities we face here in  
5 California.

6           But I think we will be well prepared for whatever  
7 reform does come down the pike from Washington.

8           SENATOR AYALA: But will you as the Director pursue  
9 that?

10          MS. BELSHE: Very much so. We have been extremely  
11 involved in taking a look at the Clinton plan, which certainly  
12 offers considerable promise in terms of significantly expanding  
13 access to needed services and improving health status and health  
14 outcomes.

15          I think the balance that needs to be struck, and  
16 we've heard Governor Wilson speak to this, is that from his  
17 perspective, the number one priority is jobs, and it's important  
18 that we not go down a path of health care reform that ultimately  
19 leads to few jobs. That's a situation that the Governor feels  
20 we can ill afford at this time.

21          SENATOR AYALA: Thank you.

22          MS. BELSHE: Thank you.

23          CHAIRMAN ROBERTI: Are there any other questions?  
24 Senator Petris.

25          SENATOR PETRIS: Is there kind of a back-up plan?  
26 Some of the experts claim that the Clinton plan just isn't going  
27 to get up enough steam to pass this year. Senator Dole has  
28 really been hammering at it, and that puts the whole minority





1 party squarely against it, and there are others who oppose it.

2           What troubles me is that in California, in spite of  
3 the good things done by the Governor, and I freely acknowledge  
4 that, a lot of it due to your influence, I might add, including  
5 the no smoking in the state buildings, and so forth, we still  
6 have close to 7 million people in this state without any health  
7 care coverage whatsoever. And the shocking thing about it is  
8 that 85 percent of them have full-time jobs.

9           That's why I don't believe in dumping on the  
10 employer. A small employer can't afford to pay it. That's why  
11 I think we need -- you spoke about a pool. The principle of the  
12 pool ought to apply to every one of us. We all should be part  
13 of a pool.

14           So, my point is, if those experts are correct, and we  
15 don't even get a plan this year, does the Governor intend to  
16 push something for California after that?

17           MS. BELSHE: Well --

18           SENATOR PETRIS: Or do you?

19           MS. BELSHE: I'll give you my observations in terms  
20 of what I see coming down the road, and how I would anticipate  
21 California potentially reacting to that, or playing a role in  
22 that.

23           My first comment, though, would be to underscore your  
24 point about mandatory -- implicitly, what I think I was hearing  
25 you say, simply mandating health insurance doesn't make that  
26 coverage affordable. And so, that has been one of the real  
27 stumbling blocks from many people's perspective, particularly  
28 Governor Wilson, in terms of what would be the implications of





1 such a mandate. And that's why the idea of the significant pool  
2 mechanisms, that can really harness the purchasing power of  
3 small groups, and give them the same leverage as a big employer,  
4 seems to make a lot of sense. And indeed, we've found it really  
5 has brought down the cost of coverage to make it more affordable  
6 for small businesses. And that really needs to be at least at  
7 this point in time our primary target population.

8 But looking to the future, looking at what we see  
9 happening in Washington, D.C., I don't necessarily disagree. I  
10 thought I heard you say that things look uncertain in terms of  
11 what may ultimately may be produced from Washington.

12 I think, though, there are some very common elements  
13 among the array of competing plans that ultimately could be a  
14 fairly significant effort, albeit not a universal one. And  
15 notwithstanding the President's message last night of the State  
16 of the Union, which seemed to once again really draw a line in  
17 the sand as it relates to universal coverage, I think there is a  
18 sense on Capitol Hill that there are a number of things that can  
19 be done now based upon pooling mechanisms, based upon managed  
20 care and prevention, underwriting reforms, tort liability.  
21 Efforts such as that, when, if taken together, can go a long way  
22 in terms of really reaching the targeted group, which is your  
23 small businesses.

24 But one of the fundamental elements you need in order  
25 to make that work are revenues to provide subsidies to those  
26 individuals who, even after these pooling mechanisms have been  
27 created and costs have gone down, still cannot afford coverage.  
28 And that's why one of the ideas that's been kicked around back



1 east is the idea of putting a limit on the tax treatment of  
2 health benefits as a way to not only encourage cost-conscious  
3 purchasing by consumers, but also as a way of raising revenues  
4 that can then be targeted to these small businesses and  
5 individuals that simply can't afford coverage elsewhere.

6 So, I would suggest there may be the elements of a  
7 compromise, but given the President's comments about universal  
8 reform, that may not occur -- or, universal coverage, that may  
9 not occur.

10 SENATOR PETRIS: Well, as I heard it, the ingredients  
11 he listed as an absolute minimum seemed to be in just about  
12 every bill that's up there. Everybody wants universal health  
13 care coverage. Everybody wants protection against prior  
14 existing condition. Some of the companies are already  
15 announcing they're not going to do that any more. Everybody  
16 wants an employee to continue to have the coverage, whether jobs  
17 are changed or not, wants to free the employee from the golden  
18 shackles of being tied to a wonderful health plan, and turning  
19 down opportunities for a better job elsewhere that doesn't have  
20 a health plan, or that doesn't have a very good one. Everybody  
21 agrees on that. And hopefully, you know, we'll come out of it  
22 with a consensus.

23 I would ask you to reopen the door in your  
24 considerations with the Governor on single pay of some kind.  
25 The thing that's been overlooked is the enormous savings just on  
26 paper. Last year, there was published -- two studies were  
27 published. One by the General Accounting Office addressing the  
28 question: if the nation went to single pay, would there be any





1 savings? They concluded it would be \$62 billion. That's more  
2 than enough to pick up everybody that isn't covered and provide  
3 more coverage.

4           The New England Journal of Medicine -- that's not the  
5 New Republic; that's the New England Journal of Medicine -- also  
6 did a study based on the figures of experience in 1987. Their  
7 findings were \$82 billion, and then when they updated the  
8 figures to 1991, they came up with a savings of \$135 billion,  
9 without cutting any doctor's fee or any hospital charges, but  
10 simply getting rid of the paperwork that's involved in the 1500  
11 different insurance companies that are operating in the country,  
12 each of them with a number of plans.

13           It's really the paperwork, like the Roman Empire, is  
14 weighing down the whole thing. And you don't step on any  
15 provider's toes in the process.

16           So, I would urge you to, you know, take a good look  
17 at that.

18           MS. BELSHE: As you well know, Senator, under  
19 President Clinton's plan, notwithstanding the rhetoric about  
20 state flexibility, states really have one of two choices in  
21 terms of which path down which to go. One of those choices is,  
22 of course, the single payer. And certainly, given the interest  
23 in this body, as well as amongst the public, in terms of  
24 exploring single payer as an approach, I would anticipate that  
25 we collectively will be assessing single payer compared to the  
26 more managed competition type of approach to determine which  
27 option makes the most sense for California.

28           And we have additional -- some of our own thinking





1 going into it which probably tempers some of our enthusiasm, but  
2 we appreciate the advantages put forward by the advocates.

3 SENATOR PETRIS: Well, I'll lend you some of my  
4 enthusiasm.

5 That's one of the reasons that I'm urging you to  
6 reopen the door there and look at it. President Clinton --  
7 rather, Mrs. Clinton, at the outset, with the task force,  
8 summarily rejected any talk of single pay. And then there were  
9 rumors that they would not permit any state to go into single  
10 pay. Now they've said it's up to you, so that's one of the  
11 options so far. That could change.

12 Anyway, what I'm asking for is a thorough  
13 examination, to give that a fair test in its comparison with  
14 others while they're shaping it.

15 I'd like to go on to tobacco, which we talked about  
16 yesterday. Well, I know the answer, because I talked to you  
17 yesterday, but I think it's good to have others hear you on the  
18 problem of transferring funds from one part of Prop. 99 to  
19 another, or out of 99 into other vitally needed care programs,  
20 direct care.

21 The magic figure seems to be, well, it's in the  
22 statute, 20 percent is supposed to be allocated for the  
23 educational part and public media campaigns, and so forth. And  
24 it's now down to 11.7 in the current budget.

25 Is it the goal of the Governor to get back to 20 if  
26 possible, or stay at 11.7, or some number in between? Where are  
27 we going in this area?

28 MS. BELSHE: I think that the Governor's expenditure



1 plan for Prop. 99 lays out the administration's starting point  
2 for the reauthorization process which has just gotten underway.

3 I would note, as we discussed yesterday, Senator,  
4 that the major, quote-unquote, "non-health education program"  
5 that has been supported by health education monies was the  
6 result of decisions made back in 1989, when the initial  
7 expenditure plan for Prop. 99 monies was approved by the  
8 Legislature.

9 I think from our perspective, all of the programs  
10 that have been supported by the health education account money  
11 do contribute to the state's tobacco use prevention and  
12 cessation efforts. The screening programs for low-income  
13 children, which represents the bulk of the services monies in  
14 that account, do have very significant anti-tobacco education,  
15 information, and referral components that are targeted to the  
16 same population that the overall tobacco control activities  
17 focus on as well.

18 So, I think we would argue that there indeed is some  
19 connection between the health education account monies and these  
20 screens, but we also understand the concern of individuals who  
21 argue that as a result of -- I mean, the good news is, people  
22 are smoking less. And so, our 99 revenues have diminished  
23 significantly. Indeed, this past year they were down roughly  
24 \$40-45 million, and we're projecting them to go down an  
25 additional \$75 million in the budget year.

26 SENATOR PETRIS: Would you attribute a lot of that to  
27 the education campaign, the media campaign?

28 MS. BELSHE: Two points of view. The impact of the





1 tax, as well as the impact of the tobacco control activities in  
2 our schools, through the media campaign, our communities, and so  
3 forth.

4 But recognizing that as revenues go down, and to the  
5 extent there's caseload-driven programs that have been protected  
6 from those overall reductions, that means some programs have  
7 been disproportionately impacted, as we discussed yesterday. So  
8 that's why the Governor's expenditure plan for the next two  
9 years includes a number of efforts to try to mitigate that  
10 impact on the tobacco control programs.

11 For example, the proposed growth in the CHDP  
12 screening program, historically that growth has been funded out  
13 of health education. In the Governor's expenditure proposal,  
14 it's funded out of other accounts to minimize the additional  
15 impacts that might occur on the health education programs.

16 Additionally, recognizing the incredible success and  
17 the reach and the significance of the media campaign, our  
18 expenditure plan proposes to basically hold funding even for the  
19 media component of those health education programs. And even if  
20 revenues do continue to decline, to hold the media accounts at  
21 that level.

22 So, we've tried to take some steps to mitigate the  
23 impact on the programs, in fact, if revenues are going down over  
24 all.

25 I suppose the positive is, indeed, people are smoking  
26 less, but that does mean there are less monies available to  
27 support some very important programs.

28 SENATOR PETRIS: Since talking to you yesterday, it





1 was brought to my attention that there's been a cut in the  
2 budget for Department of Health Services employees currently  
3 working on tobacco control programs, to the extent of one-third.

4           Isn't that going to have a harsh impact on what  
5 they're doing?

6           MS. BELSHE: It's something we're taking a look at,  
7 but it's directly a consequence of the fact that the revenues in  
8 Prop. 99 overall are dropping as dramatically as they are.

9           SENATOR PETRIS: They're not out of General Fund;  
10 they're paid for out of the 99 --

11           MS. BELSHE: They're paid for by the Prop. 99  
12 revenues, you bet.

13           SENATOR PETRIS: So it's a direct function of that.

14           MS. BELSHE: Yes, sir.

15           SENATOR PETRIS: So nothing succeeds like success.  
16 You ultimately get wiped out.

17           MS. BELSHE: We need to keep reminding ourselves that  
18 there is good news in the plummeting dollars.

19           SENATOR PETRIS: Thanks very much. Good luck.

20           MS. BELSHE: Thank you, Senator.

21           CHAIRMAN ROBERTI: I'm told there's some out of town  
22 witnesses for Ms. Belshe's confirmation. Why don't you come  
23 forward if you are in support or opposition, and you can let us  
24 know so we can accommodate you.

25           DR. GILBERT: Thank you very much for the opportunity  
26 to speak. My name is Dr. Brad Gilbert. I am the President of  
27 the California Conference of Local Health Officers. I'm the  
28 Health Officer in Riverside County with the good GAIN program



1 that works so well.

2 I'm here to speak in support of the confirmation of  
3 Kim Belshe because I believe she's committed to public health.  
4 I've seen that personally and professionally in her current  
5 position nominated as the Director. She has worked very closely  
6 with CCLHO. She made a commitment to get connected to our  
7 organization quickly, and has been very willing to listen to our  
8 input on critical public health issues.

9 As she recounted, as Deputy, she was involved in a  
10 number of critical public health issues. As I think this group  
11 knows, teenage pregnancy is one of the more embarrassing  
12 statistics for the State of California, and Kim has been active  
13 in trying to work on the Enable Program, and other programs, to  
14 try to decrease that problem.

15 In addition, in a very difficult budget year, and I  
16 understand that the budget certainly is not finished, they have  
17 proposed out of the Department three critical initiatives.

18 Number one is tuberculosis control, which we believe  
19 is critical at a time when tuberculosis cases are increasing,  
20 and we're seeing more multi-drug resistant cases.

21 Second is immunization programs. This is something,  
22 again, where the State of California actually does fairly well  
23 in regard to the rest of the country, but the country as a whole  
24 has an embarrassing record for immunization of our young  
25 children.

26 Third is around women's health issues in terms of  
27 programs for sexually transmitted disease in women, early  
28 intervention programs for women with HIV disease.



1           These critical initiatives, I believe, are a very  
2 positive evidence of Kim's commitment to public health. I  
3 would, of course, urge the Senate and Assembly to support those  
4 efforts, but I believe Kim Belshe has shown her commitment.

5           Our organization is very happy to support her  
6 confirmation.

7           Thank you for the opportunity to speak to you.

8           CHAIRMAN ROBERTI: Thank you very much.

9           Please, the next witness.

10          MS. McBRIDE: Laurie McBride, Executive Director of  
11 the Life AIDS Lobby. My doctor has allowed me to be here today  
12 to testify, which is indicative of my support and the support of  
13 my Lobby for Kim Belshe.

14          Just briefly, I want to say that the Life AIDS Lobby  
15 represents California's HIV affected gay and lesbian community,  
16 and we have had the opportunity to work directly with Kim on  
17 several occasions throughout her tenure. She has been  
18 inordinately accessible to the communities, listening carefully  
19 to the information that we had to present, and willing to work  
20 with us.

21          In her capacity as Deputy Secretary of Health and  
22 Welfare, she was a staunch advocate for comprehensive and  
23 compassionate HIV policies, including supporting legislation to  
24 prohibit discriminatory practices by health insurers against  
25 people who file HIV-related claims. She supported legislation  
26 to expand off-label drug uses of FDA-approved drugs for life-  
27 threatening illnesses, and supported legislation to allow  
28 families living with AIDS to stay together in state-licensed





1 facilities.

2 While we don't always agree, we find her a very  
3 knowledgeable and accessible advocate for the people of  
4 California, willing to listen to all of the advocates and come  
5 to sound public policy conclusions.

6 We strongly urge your support for Kim Belshe as  
7 Director of Health Services.

8 CHAIRMAN ROBERTI: Thank you very much, Ms. McBride.

9 MS. CAPELL: Beth Capell, California Nurses  
10 Association.

11 We're also in support of this nomination. I won't  
12 take very much of the Committee's time, but simply to say, as  
13 others have said before and others after me, that we have worked  
14 with Ms. Belshe and have found her to be a very effective  
15 advocate for health care. And we also have not always agreed,  
16 but we have found that she understands not only health care, but  
17 the concerns of the nursing profession in the way that we,  
18 frankly, have not experienced in previous administrations.

19 CHAIRMAN ROBERTI: Thank you very much.

20 MR. DUNN-MORTIMER: John Dunn-Mortimer with AIDS  
21 Project Los Angeles. We provide social and health services for  
22 3900 people with HIV disease in Los Angeles County.

23 We're here strongly in support of Kim Belshe. We've  
24 worked with her when she was with Senator Wilson, and at that  
25 point, she was a proponent of increasing federal funding for HIV  
26 care and treatment. And it's clear that over the years, she  
27 understands the issues surrounding HIV. She's demonstrated  
28 compassion. She's been pragmatic, and she's had a consistent



1 record of seeking community input.

2 And some specific examples of ways that she's  
3 supported HIV in her former position, she was instrumental in  
4 getting administration support for mandating HIV education in  
5 secondary public schools. She worked to expand the number of  
6 life-saving drug therapies available in the AIDS drug assistance  
7 program. She has worked to help maintain private health  
8 insurance coverage for people with HIV, and she worked to remove  
9 a strange Medi-Cal requirement that you had to be  
10 institutionalized in order to receive home health care, which  
11 was designed to prevent institutionalization.

12 Again, AIDS Project Los Angeles strongly supports her  
13 confirmation.

14 Thank you.

15 CHAIRMAN ROBERTI: Thank you very much.

16 For those who are going to be testifying, if you  
17 something new to add, please say so. If it's general  
18 confirmation, or to repeat what we have heard, your words are  
19 very important, but maybe identification as well as a statement  
20 of support would be all that would be necessary.

21 And I didn't want to pick on you, Mr. Msemaji, for  
22 that opening remark. You were the first one up.

23 MR. MSEMAJI: Thank you, Mr. Chairman.

24 Ken Seaton Msemaji with the United Domestic Workers  
25 of America.

26 We've been, as you know, involved with in-home  
27 supportive services and first met Kim Belshe during the period  
28 when the Governor was Governor-elect.





1           We will ditto everything that has been said, because  
2 we've found that to be the case.

3           I'd like to draw your attention to a few other  
4 unmentioned so far factors.

5           You all have been faced with enormous budget deficits  
6 every year for the last several, several years. And in each one  
7 of those years, this Legislature and the executive branch,  
8 whether you're fighting or not, have protected in-home  
9 supportive services, and that has been due, in a large part, to  
10 the Governor's confidence in Ms. Belshe. And under that  
11 enormous pressure, IHSS has never been cut by one cent. There  
12 was a six-month period where there was a reduction in client  
13 hours, which was tantamount to a freeze. It only lasted six  
14 months because our state finally applied successfully for  
15 federal monies that we could have been getting all of these  
16 years for personal care services.

17           Ms. Belshe and her associates were able to help the  
18 Governor and the Legislature to apply for those funds  
19 effectively and get them, and we got them last April. The  
20 program has been improved, and those cuts were restored.

21           It seems to me that at this time of realignment here,  
22 as well as in Washington, we were recently back at the White  
23 House, talking about long-term care in the context of national  
24 health care reform, and they would like to expand that.

25           We need the best team we can put together, and we're  
26 convinced it's Kim Belshe as part of that team. We need to go.  
27 We need to have our influence, and we need to get all the  
28 funding, and everything else we can, bring it back to





1 California. And if we must, let's fight over it here, but let's  
2 go get it.

3 Ms. Belshe, and Ms. Smoley before her, are two of the  
4 people that we think are enormously necessary to our success,  
5 our continued success, interacting with the government in  
6 Washington.

7 Thank you very much.

8 CHAIRMAN ROBERTI: Thank you very much.

9 MR. THOMPSON: Mr. Pro Tem, Senators, I'm Steve  
10 Thompson with the California Medical Association.

11 We think that Kim Belshe is a dynamite appointment.

12 Let me tell you where I first met Kim Belshe, because  
13 it wasn't in her current position. It was when she was an aide  
14 to Senator Wilson, and I was the Director of the Office of  
15 Research, and we were charged with implementing legislation on  
16 long-term care carried by then-Assemblyman Lloyd Connolly.  
17 Lloyd Connolly, being a Democrat, did not have strong Republican  
18 support for the federal waiver requirements and the statutory  
19 changes that were necessary in Washington in order to start this  
20 pilot project, which is now ongoing, and the State Legislature  
21 here was the only one funded, until we met Kim Belshe, who not  
22 only pushed the bureaucracy on this -- she's forgotten this --  
23 but also was successful in getting the provisions of this bill  
24 included in federal legislation at the state level.

25 So, from that standpoint, when you find somebody on  
26 anybody's staff that is willing to take on successfully the  
27 federal bureaucracy, you tend to think that that's a hero that  
28 ought to be cherished. And I think that's the kind of context



1 that Kim Belshe brings to public service, and I think you'd be  
2 honored all in supporting her endorsement.

3 Thank you.

4 CHAIRMAN ROBERTI: Thank you very much.

5 Senator Petris.

6 SENATOR PETRIS: Let me get this clear.

7 Are you in favor of this nominee?

8 [Laughter.]

9 MR. THOMPSON: Yes, but I was hoping you weren't  
10 going to ask the single payer question, Senator Petris.

11 CHAIRMAN ROBERTI: Next.

12 MR. FLATT: Mr. Chairman, Members of the Committee,  
13 Dennis Flatt, representing Kaiser Permanente.

14 I've had the pleasure of working with Kim Belshe on a  
15 number of issues over the last two or three years, and I've  
16 found her to have the qualities that you're looking for in a  
17 department director. Among those are accessibility, and  
18 thoughtfulness, and intelligence, and the ability to act, and  
19 guts.

20 And I think the one new thing I'd like to add is, I  
21 really saw her under fire this last year, in 1993, when there  
22 were efforts to try to undo a lot of the reforms that were  
23 accomplished by the State Legislature in the small group  
24 insurance reform legislation. She took a lot of heat. She  
25 showed me that she also has the quality of being a Marine when  
26 it's necessary to be one, and I think she'll make an excellent  
27 appointment.

28 I have already forgiven her for her checkered past



1 and look forward to great accomplishments.

2 Thank you.

3 CHAIRMAN ROBERTI: Thank you.

4 MR. MARSHALL: Mr. Chairman, Members of the  
5 Committee, I'm Bob Marshall. I'm the CEO of the California  
6 Pharmacists Association.

7 We'd just like to echo what's been said before. We  
8 very much support the appointment of Ms. Belshe as Director.  
9 She's got a tough job of balancing the needs of public health of  
10 the state, the requirements that are set forth in our budget,  
11 and trying to keep the health providers happy. She's certainly  
12 achieved a good balance as far as we're concerned, and we're  
13 looking forward to working with her subsequently.

14 CHAIRMAN ROBERTI: Thank you.

15 MR. DOWELL: Mr. Chairman, Senators, I'm Soap Dowell,  
16 a member of the Major Risk Medical Insurance Board, appointed  
17 there by Speaker Willie Brown.

18 In that capacity, I have had the pleasure and the  
19 very rewarding experience of serving with Ms. Belshe, who has  
20 been an ex officio member of that Board for the past three  
21 years. And I can attest to you with general response to the  
22 specific questions which you've asked, Senator Petris, regarding  
23 a commitment to expanded access, to the success of the MRMIB  
24 program, the AIM program, and the HIPC program, that Ms.  
25 Belshe's commitment to the success of those programs, to the  
26 expansion of them to the fullest extent possible with the  
27 realities of the budget are without reservation.

28 She has made a great contribution there, particularly





1 because her commitment to them has reflected and enhanced the  
2 commitment of the administration.

3 I strongly urge this confirmation as the Director of  
4 the Department of Health Services.

5 Thank you.

6 CHAIRMAN ROBERTI: Thank you very much.

7 MR. HITCHCOCK: Mr. Chairman and Members, my name is  
8 Doug Hitchcock. I'm the Executive Vice President of the  
9 California Association of Hospitals and Health Systems.

10 It's impossible to avoid being redundant, so I'll  
11 just be brief instead.

12 Our experience with Kim in the years we've worked  
13 with her, starting with her service in Washington with the  
14 United States Senate, and through the extraordinary efforts that  
15 Secretary Smoley and she have made to get the health care system  
16 up and running again in Los Angeles County in the last week, we  
17 have found Kim Belshe to be a person of extraordinary integrity,  
18 competence, energy, and dedication, and strongly urge your  
19 confirmation.

20 Thank you.

21 CHAIRMAN ROBERTI: Thank you.

22 MR. MORGAN: Mr. Chairman and Members, my name is Jim  
23 Morgan. I am the Government Relations Manager for CIBA  
24 Pharmaceuticals.

25 I, Mr. Chairman, accept your admonition that we be  
26 brief. Unfortunately, I'm the last person in line to testify.

27 We urge your confirmation of Kim Belshe.

28 CHAIRMAN ROBERTI: Thank you very much.



1 Is there anyone here in opposition?

2 Senator Petris.

3 SENATOR PETRIS: I want to renew the same motion for  
4 the reasons stated, putting this one over.

5 CHAIRMAN ROBERTI: Senator Petris asks that we also  
6 put this one over in the anticipation that you are going to be  
7 confirmed.

8 SENATOR PETRIS: Yes. I might add, I'm committed to  
9 vote for you.

10 CHAIRMAN ROBERTI: That's not total consolation that  
11 you have to go through this, but we always honor the one week.

12 SENATOR PETRIS: One meeting.

13 CHAIRMAN ROBERTI: Thank you very much.

14 MS. BELSHE: Very good. Thank you, Mr. Chairman,  
15 Members.

16 MS. SMOLEY: Can I call on a conference call from  
17 L.A.?

18 CHAIRMAN ROBERTI: Yes, I will insist on it. You'd  
19 better stay in the San Fernando Valley.

20 We're going to take them up in this order: Bobbie  
21 Fiedler, Member of the California State Lottery; and then  
22 Mr. Julian S. Marquez, Warden of the Chuckawalla Valley State  
23 Prison. Then I will try to take up the Trustees of the  
24 California State University together, and then, of course,  
25 Ms. Olivarez.

26 Thank you for coming, Ms. Fiedler.

27 MS. FIEDLER: Thank you. And thank you for all your  
28 help with the San Fernando Valley.



1 CHAIRMAN ROBERTI: Right, thank you. I am sorry  
2 about both your family tragedies, and certainly the earthquake  
3 struck you as devastatingly as it did everybody.

4 MS. FIEDLER: It keeps us all on our toes.

5 CHAIRMAN ROBERTI: We'll ask you what we've asked all  
6 the appointees, and that's why you're qualified to assume the  
7 position as a Member of the California State Lottery.

8 MS. FIEDLER: I have a broad base of experience in a  
9 variety of different types of business as well as government  
10 experiences. I have been a small business person.

11 I also have served as a member of the Los Angeles  
12 Board of Education, and of course, education is the primary  
13 purpose for the funding that comes to the Lottery. I was Chair  
14 of the Budget Committee there, so I understand the finances of  
15 the school district.

16 I also have served as a member of the Budget  
17 Committee at the federal level, and a member of the Joint  
18 Economic Committee, and I think that I have a good sense of  
19 creativity in terms of how to approach the management and  
20 business problems that exist, as well as an understanding of the  
21 people who are being served by the agency.

22 I look forward to trying to help maximize the amount  
23 of revenue for public education, because I believe personally  
24 that's the primary purpose for the Lottery's existence and,  
25 hopefully, future success.

26 CHAIRMAN ROBERTI: Absolutely.

27 Are there any questions of Ms. Fiedler? Senator  
28 Ayala.





1           SENATOR AYALA: Your term is for five years on the  
2 Lottery Commission.

3           What kind of leadership do you believe the Commission  
4 needs right now, and how do you hope to provide some of that  
5 leadership? What programs do you think should be involved?

6           MS. FIEDLER: I think the most important thing that  
7 we can do is make certain that the reputation of the Lottery is  
8 much improved in terms of its management, of its relationship  
9 with businesses, in terms of contracting, offering a broad base  
10 of businesses the opportunity to become involved in the  
11 contracting process.

12           I personally in the past have been very supportive of  
13 small business initiatives, and I think we need to expand the  
14 number of businesses that come to the Lottery and participate in  
15 the competitive process so that we don't end up with simple  
16 sole-source type of contracting.

17           I think that we have to work hard to make sure that  
18 we have as much revenue as possible for public education, that  
19 we develop a closer and better understanding of those  
20 relationships, and that we keep tight control over the  
21 administrative elements of the agency, and make certain that  
22 monies are spent only on an absolutely as-needed basis.

23           I want to make certain that any advertising funds  
24 spent, which is an important element of the budget to bring more  
25 people into participation with the Lottery, are done in a very  
26 cost-effective manner and are measured. In fact, I had a  
27 discussion today with one of the members of the Lottery about  
28 the importance of making certain that if we're going to spend



1 funds for advertising purposes, that we see a direct cost  
2 benefit ratio to it, and not simply spend them because it's a  
3 habit of spending.

4 SENATOR AYALA: Would you support a smaller  
5 percentage from the Lottery funds going to advertising and into  
6 the classroom instead?

7 MS. FIEDLER: I think it's important that we spend  
8 every dollar we can for public education. We have a major  
9 crisis within the state. We also, of course, have local crises.  
10 I'm from the San Fernando Valley. I live in Northridge. I have  
11 grandchildren who are unable to attend school, and I think it's  
12 important that we get our schools back up on their feet and make  
13 certain that they're funded in as high as possible levels  
14 because they need it, and they're entitled to it. They're the  
15 next generation.

16 SENATOR AYALA: Your answer is yes.

17 MS. FIEDLER: Yes.

18 SENATOR AYALA: Thank you.

19 MS. FIEDLER: You're welcome.

20 CHAIRMAN ROBERTI: Is there anyone here in support or  
21 opposition?

22 Do I hear a motion?

23 SENATOR CRAVEN: Move.

24 CHAIRMAN ROBERTI: Senator Craven moves.

25 No further discussion or debate, Secretary, call the  
26 roll.

27 SECRETARY WEBB: Senator Ayala.

28 SENATOR AYALA: Aye.



1 SECRETARY WEBB: Ayala Aye. Senator Beverly.

2 SENATOR BEVERLY: Aye.

3 SECRETARY WEBB: Beverly Aye. Senator Petris.

4 SENATOR PETRIS: Aye.

5 SECRETARY WEBB: Petris Aye. Senator Craven.

6 SENATOR CRAVEN: Aye.

7 SECRETARY WEBB: Senator Craven Aye. Senator  
8 Roberti.

9 CHAIRMAN ROBERTI: Aye.

10 The vote is five to zero; confirmation's recommended  
11 to the Floor.

12 Congratulations.

13 MS. FIEDLER: Thank you very much, all of you.

14 CHAIRMAN ROBERTI: Next is Julian S. Marquez, Warden  
15 of Chuckawalla Valley State Prison, California Department of  
16 Corrections.

17 Mr. Marquez, we'll ask you the same question, and  
18 that is why you feel you're qualified to be the Warden of  
19 Chuckawalla Valley?

20 MR. MARQUEZ: First of all, I'd like to take the  
21 opportunity to thank you all for being here before you for my  
22 confirmation and consideration as Warden at Chuckawalla.

23 I am a 26-year old -- 26-year career correctional  
24 employee. I have promoted through the ranks from a correctional  
25 officer student trainee at the age of 19, back in 1968. And  
26 like I say, I got promoted through the ranks up to my present  
27 position as Warden at Chuckawalla Valley State Prison, for which  
28 I was initially appointed in October on an acting capacity, and





1 by the Governor on February the 3rd of 1993.

2 In my 26 years' experience with the Department of  
3 Corrections, I have enjoyed approximately 14 different job  
4 classifications. I've also had the benefit of working in nine  
5 correctional institutions throughout the system.

6 And also my background, I have two full-time teaching  
7 credentials: one in public services administration, and one in  
8 Spanish heritage. My educational background, I am a graduate of  
9 1967 from Chaffey High School in Ontario, California. I have  
10 also received my AA Degree in Correctional Science from Chaffey  
11 College in Alta Loma in 1971, and from 1971 to the present, I  
12 have attended a variety of universities and colleges and have  
13 accumulated approximately 80 college units in pursuit of my  
14 Bachelor's Degree in Correctional Science.

15 In view of my foregoing experience, education, and  
16 background, I believe that I am professionally qualified,  
17 experienced, and prepared to serve the Governor, the State  
18 Legislature, the Department of Corrections, the inmate  
19 population, and the citizens of California as the Warden of  
20 Chuckawalla Valley State Prison.

21 CHAIRMAN ROBERTI: Thank you very much.

22 Are there any questions?

23 Is there anyone here in opposition?

24 Senator Ayala.

25 SENATOR AYALA: Do you have a drug problem within the  
26 compounds of the prison? What's the little town up there?

27 MR. MARQUEZ: Chuckawalla? Blythe?

28 SENATOR AYALA: Blythe. Is there a drug problem



1 within the prison grounds? If so, how do you control that, what  
2 are you doing to control that?

3 MR. MARQUEZ: As the Warden, you know, my  
4 responsibility is to try to control those kinds of activities as  
5 much as possible.

6 In the last year, I can remember just a few number of  
7 drug-related situations within the prison as it involves the  
8 visitors and so forth.

9 Now, in terms of the inmate population, they seem to  
10 have a creative way of becoming involved in the possession of  
11 narcotics, and we are very much pursuing that aggressively  
12 through some type of a prevention, disciplinary, and of course,  
13 supervision.

14 SENATOR AYALA: The perception up there is that there  
15 is a lot of trafficking dealing with drugs within the prison,  
16 and people are confused.

17 Is that over-blown? Is that not quite the case?

18 MR. MARQUEZ: Well, Senator, I do know that there is  
19 a problem with drug trafficking, especially at Chuckawalla, but  
20 we try to aggressively pursue that by searching as much as we  
21 can. During the month of December, I believe, there were about  
22 seven visitors that we turned away because they were the subject  
23 of some attention over the possibility of drug trafficking.

24 So, we try to do what we can in terms of that regard,  
25 still making sure that we remain legal in our process.

26 SENATOR AYALA: You turned away, you say. They were  
27 within the prison grounds and you couldn't apprehend them?

28 MR. MARQUEZ: No, they were people that, through our



1 monitoring system, through our telephone, or through our  
2 supervision, that we had information that they may be trying to  
3 introduce narcotics or drugs into the institution.

4 And as the procedures and policies are such, they  
5 decided that they would not allow us to search them. They would  
6 not allow us to process them as we do visitors, and they elected  
7 to not enter the premises of the institution.

8 SENATOR AYALA: If these folks are in the parking  
9 lot, let's say, of the facility, and they had drugs with them,  
10 as long as they don't try to get through the gate to the prison  
11 grounds, you cannot apprehend them?

12 MR. MARQUEZ: If I am aware, sir, that they are in  
13 possession of narcotics, and we have a reasonable belief, then  
14 we will pursue them.

15 SENATOR AYALA: You would, even though they're not  
16 within the --

17 MR. MARQUEZ: Yes, sir. Yes, we have. In the past,  
18 there's times that we have had the assistance from the local PD  
19 come and join with us to make sure that we deal with these drug  
20 traffickers swiftly and directly as we can.

21 SENATOR AYALA: Thank you.

22 CHAIRMAN ROBERTI: Any other questions?

23 Anyone here in support? Anyone here in opposition?

24 MR. THOMPSON: Chairman Roberti and Members, I'm Jeff  
25 Thompson with the Correctional Peace Officers Association.

26 The Association is here, actually, given there's no  
27 opportunity for neutral to come forward, to come in with a  
28 caveat because we do have some questions.





1 MS. MICHEL: You can be neutral.

2 MR. THOMPSON: We can be neutral.

3 Generally, our Association has received an awful lot  
4 of input from the officers and chapters out there on a lot of  
5 the Wardens' appointments. And believe me, we screen them  
6 pretty heavily, and we don't bring a lot of them here. And it's  
7 rare that our Association is involved with these hearings as a  
8 general rule. There's been an awful lot of appointments of  
9 Wardens, as you know, over the last decade. So, it's with some  
10 qualification that we're here now.

11 We have concerns about this appointment. We've gone  
12 through a battery of different grievances and things that have  
13 been filed over the last several months, but we dismissed all of  
14 those except for one that kind of sticks in our mind as fairly  
15 serious. We'd like to bring this to the attention of Mr.  
16 Marquez and also to this Committee and this forum.

17 If the Sergeant would pass out, if they haven't  
18 already, there is a formal grievance that was filed, as you'll  
19 note. It was received at the Chuckawalla Prison on the 26th of  
20 October of '93, wherein an officer who was in court dealing with  
21 a domestic issue; it had to do with his fiance's ex-husband.  
22 And in this case, this officer had on -- at some point, be  
23 subject to some fairly, we think, improper action by the Warden  
24 before you. Specifically, an attempt to prejudice a judicial  
25 hearing; a violation of the CDC policies concerning information  
26 practices. That's Section 1303 of the Department's  
27 Administrative Manual. Violated the state's contract with its  
28 employees, which is Section 9.05.



1           And also included in your handout is a letter from an  
2 officer of the court, the counsel to Officer Barr, which  
3 indicates phone calls from Mr. Marquez and a lieutenant at the  
4 institution which was received without solicitation -- and I  
5 want to underline that point -- without solicitation,  
6 instructing the Deputy D.A. to ignore letters that were  
7 character letters for Officer Barr in his judicial hearing.  
8 Again, a domestic issue off the -- having nothing to do with the  
9 prison.

10           The D.A. was instructed, and I found that to be  
11 interesting words, instructed by the Warden to disregard those  
12 letters and that they were not to be considered by the court.

13           Also, the two lieutenants who were the individuals  
14 who wrote these character letters did so in violation of orders  
15 -- orders not to express their opinion to the court -- and would  
16 therefore be administratively punished.

17           Also there was, according to the counsel, even more  
18 alarming, the Deputy D.A. was notified of different items in the  
19 personnel file of the officer, which is also a violation of the  
20 contract of the state with its employees.

21           We have some very, very serious problems with kind of  
22 behavior in the position of Warden, which is such a strong  
23 position, and is such power attributed to that. This is one  
24 matter we had to bring to the Committee and ask you to ponder on  
25 it.

26           I might add, the letters that were sent to the court  
27 as character-type letters were not on Departmental letterhead.  
28 These were individuals that submitted their comments.



1           So, the questions that we would ask the Committee to  
2 consider asking Mr. Marquez is whether or not those lieutenants  
3 have, in fact, been disciplined for their submitting of letters  
4 to the court? And if they have, why?

5           I think that the counsel has probably one of the best  
6 paragraphs we've seen in a long time on the topic. And he wrote  
7 to the court:

8                     "My only comment to the court ..."  
9 and this was behind closed doors with the Deputy D.A. and the  
10 judge, his:

11                   "... only comment to the court in reply  
12 was that any individual, regardless of  
13 rank or position, had a right to file with  
14 the court their comments in support, or  
15 not in support of [Officer] Barr. That no  
16 supervisor, or Warden had a right to tell  
17 any United States citizen not to utilize  
18 their right of free speech. Since the  
19 letters were not on Department letterhead,  
20 nor in any way [purported] to be from the  
21 management, they were perfectly within  
22 their right to submit their comments."

23           It would be highly inappropriate, I think everyone  
24 would agree, that anyone would order someone not to submit their  
25 observations, comments, on another individual to a court of law.

26           Does Mr. Marquez believe that a Warden can ignore  
27 these provisions of law and interfere with a court proceeding?  
28 We think that's a very fair question.





1           This matter was formally grieved. It's 90 days since  
2 its original filing today. Now it sits at the Departmental  
3 level.

4           We'd like to know also if there's going to be any  
5 retaliation of the formal grievance of our chapter as a result  
6 of bringing these facts before you at this hearing. We think  
7 those are fair questions.

8           CHAIRMAN ROBERTI: Thank you very much.

9           Mr. Marquez, why don't you respond.

10          Does anyone else wish to testify?

11          MR. SEARCY: In support.

12          CHAIRMAN ROBERTI: How many would like to testify in  
13 support? Just you?

14          Okay, why don't you respond to Mr. Thompson's  
15 questions, and then we'll have the support witness.

16          MR. MARQUEZ: Sure.

17          I guess I appreciate the comments by the gentleman.

18          In this particular situation, as I remember back  
19 there, we had an officer who had been arrested for a battery  
20 against a citizen who happened to be the estranged or ex-husband  
21 of this officer's girlfriend. The officer had been arrested,  
22 and he was undergoing judicial processing when the District  
23 Attorney from Riverside County called the office and wanted to  
24 know what our position was because he was a little confused over  
25 the fact that there were two letters on file from two  
26 correctional lieutenants. And his impression was that they were  
27 official letters from the Department of Corrections in behalf of  
28 this officer who had just committed an assault. And he felt



1 that there was an issue there that we needed clarification  
2 [sic].

3 Through my investigator, I had the office contacted.  
4 And the direction that was given was that they needed something  
5 from Chuckawalla indicating our position, and our position was  
6 that people have the right, under free speech, to communicate  
7 letters of character, or whatever, against anybody they so wish.  
8 However, in the manner that these letters were written indicated  
9 that it was a supportive position of the Department, and which  
10 it was not.

11 So, my mere fact of responding to the issue was to  
12 set the record straight that we do not condone this kind of  
13 behavior, that we do not feel that the office was appropriate in  
14 his conduct. And subsequently, I needed to clear up that issue.  
15 That's what drew the attention to that matter.

16 MR. THOMPSON: I would just call the Committee's  
17 attention to the point that the written declaration in writing  
18 by the counsel to Mr. Barr indicated that the phone calls from  
19 the Warden were unsolicited by the Deputy D.A. or anyone in the  
20 D.A.'s Office.

21 CHAIRMAN ROBERTI: My own thought on the matter is,  
22 when we get into these kinds of personnel questions, I like to  
23 investigate them ourselves to some extent.

24 We'll hear the supportive witness, but I think I  
25 would like to put this over mainly because we have to look into  
26 the issue.

27 That's not to prejudice your nomination in any  
28 way.



1 MS. MICHEL: You need to know, we have 365 days on  
2 February 8th.

3 CHAIRMAN ROBERTI: It has to be put over until  
4 Wednesday.

5 Will the next witness please come forward.

6 And that's only because we have to look at the  
7 information.

8 Please come forward.

9 MR. SEARCY: My name is Frank Searcy. I'm President  
10 of the Chicano Correctional Workers Association.

11 At this point, Mr. Chairman and the rest of the  
12 Members of the Committee, Mr. Chairman, we'd like to share with  
13 you that the Chicano Correctional Workers Association regrets  
14 deeply you leaving the leadership of this Committee. However,  
15 we wish you the best of luck in your service with the rest of  
16 the Senate. And on the same token, we wish your successor good  
17 luck.

18 CHAIRMAN ROBERTI: Thank you.

19 MR. SEARCY: The Chicano Correctional Workers highly  
20 and deeply support the confirmation of Mr. Marquez. It is  
21 obvious that Mr. Marquez is highly qualified academically in  
22 this area in the correctional science field. It is also very  
23 obvious that he is very highly qualified in the area of  
24 administration of a prison.

25 It has been known throughout the Department of  
26 Corrections, possibly, that one of the most difficult jobs to  
27 do, to complete, is to handle and manage a new prison. Mr.  
28 Marquez has highly succeeded in that area.





1           There isn't too much more that I can say or add to  
2 what Mr. Marquez has already said. At this point, not knowing  
3 any of the situation that has been presented, and should we say  
4 the negative situation, not knowing personally anything about  
5 it, and at this point, I definitely don't want to attempt to, or  
6 appear to attempt to, minimize that situation.

7           However, I think it is relief to Mr. Marquez if  
8 that's all that was brought forward. I think that's very good  
9 under the circumstances where you're running a prison and you  
10 are flooded with these types of situations.

11           Again, if this was all that was presented, I think  
12 that when the Committee concludes their investigation, and they  
13 put all the positives and negatives together, it's no question  
14 in our mind that you will overwhelmingly be able to confirm  
15 Mr. Marquez's confirmation.

16           Thank you very much.

17           CHAIRMAN ROBERTI: Thank you very much.

18           Mr. Marquez, we'll put you over for one week.  
19 That'll give the staff a chance to look into the information  
20 involved. We definitely have to take you up, and I'll inform  
21 the new Chair that we have to take you up before the 5th and  
22 have the confirmation on the Floor.

23           Thank you very much.

24           MR. MARQUEZ: Thank you.

25           CHAIRMAN ROBERTI: I think we need to take a break.  
26 We'll break for five minutes.

27           [Thereupon a brief recess was taken.]

28           CHAIRMAN ROBERTI: The Committee will come to order.



1 We will now take up the Members of the Trustees of  
2 the California State University: Mr. William Hauck, Joan Otomo-  
3 Corgel, and Rosemary E. Thakar.

4 Will you all come forward. We'll take you at the  
5 same time, just in the interest of time.

6 The Speaker is here to introduce one of the nominees,  
7 as is Senator Johnston. What we normally do is, we call the  
8 Member up, Mr. Speaker, why don't you come forward.

9 SPEAKER BROWN: Thank you, Mr. Chairman and Members  
10 of the Senate.

11 I am delighted to be extended the opportunity to do  
12 two things to day. To first appear before this Rules Committee,  
13 Mr. Roberti, in your 14th year presiding over this Rules  
14 Committee. Based on your announcement this morning, I fear that  
15 this may be the last opportunity I'll have to appear at the time  
16 in which you Chair.

17 I'd first like to, frankly, acknowledge a debt that  
18 all the State of California owes to you for 14 years of  
19 extraordinary service --

20 CHAIRMAN ROBERTI: Thank you.

21 SPEAKER BROWN: -- chairing the Senate Rules  
22 Committee, as well as the President Pro Temship of the Senate.

23 The two of us were elected on the same identical day  
24 to our respective leadership posts. And it's been a pleasure,  
25 even when we fought it was a pleasure.

26 And I must tell you that I am, frankly, looking  
27 forward to being of continued assistance in association with you  
28 in whatever path your further career may take. I hope you will



1 blaze a trail appropriately for another soon to be ex-leader of  
2 the House.

3 So, do well, my brother.

4 CHAIRMAN ROBERTI: Thank you, thank you. All good  
5 things come to an end. That's part of life.

6 I appreciate your remarks, and one of the great  
7 experiences of my life has been not only holding the position,  
8 but working with you, sometimes in smoke-filled rooms of the  
9 Governor's Offices where we plotted on how to take on the  
10 Republicans, and sometimes we did, and other times we didn't.  
11 Usually we converged for the benefit for the state, even with  
12 the Republicans.

13 Thank you very much.

14 SPEAKER BROWN: Thank you for the opportunity to  
15 appear.

16 Secondly, when the Governor's Office informed me that  
17 they had nominated William Hauck to become a Member of the Board  
18 of Trustees for the California State University system, a system  
19 that afforded me the opportunity for an education and to be  
20 appropriately credentialed in this state, I was, frankly,  
21 delighted and sought permission of Mr. Hauck to come over and  
22 participate, to the extent that I could, on his behalf when he  
23 came up for confirmation.

24 I think I even personally spoke to some Members of  
25 the Senate and of this particular Committee, expressing my  
26 views. It's a rare occasion. I don't think I've done that at  
27 any other time during the time that you have known me,  
28 Mr. Roberti and Members of the Senate. I don't think I've been





1 before you on behalf of any other candidate.

2 I think Mr. Hauck is extraordinarily special. He  
3 abandoned his own profession and his own private life for a  
4 period of time when I was in desperate need of leadership at my  
5 staff level. He returned from his own world to handle my  
6 operations for a full year, as was needed, and it was a  
7 devotion, frankly, clearly to his public service rather than to  
8 compensation. We couldn't even come close to compensate him for  
9 the enormous amount of money he must have been making at that  
10 time.

11 And then secondly, I had first been exposed to  
12 Mr. Hauck in the time period when my good friend, and your good  
13 friend, Bob Moretti, was the Speaker of the House. Mr. Hauck  
14 was a staff person for Mr. Moretti. In all of those years, and  
15 in all those time periods, Mr. Hauck was remained one of the  
16 most appropriate public spirited, public servant principled  
17 persons that I have known in public life.

18 I would commend him to your Rules Committee and to  
19 the entire Membership of the Senate.

20 I have no clue as to what wisdom -- that may not  
21 often be there, but it certainly was wisdom when he tapped  
22 Hauck. I, frankly, was holding Hauck back for the successor to  
23 Pete Wilson to nominate for something, but Pete Wilson has now  
24 done that, and it is a good step.

25 I commend Mr. Hauck, and I commend his candidacy to  
26 you.

27 Thank you very much.

28 CHAIRMAN ROBERTI: Thank you very much, Mr. Speaker.



1           SPEAKER BROWN: And that is not to slight the two  
2 ladies. I just don't know them.

3                                 [Laughter.]

4           CHAIRMAN ROBERTI: Senator Johnston.

5           SENATOR JOHNSTON: Mr. Chairman, I have nothing to  
6 add except to state my full support and knowledge, after 14  
7 years of serving in the Assembly and now the Senate Education  
8 Committees, and as a friend of Mr. Hauck, that his contribution  
9 to this public university will well serve the students and the  
10 state as a whole.

11                   I recommend him to you.

12           CHAIRMAN ROBERTI: Thank you very much, Senator.

13           Mr. Hauck, we will start with you, and then we will  
14 go to Ms. Otomo-Corgel, and then Ms. Thakar. We'll ask all of  
15 you why you feel that you're qualified to be in these positions.

16           MR. HAUCK: Thank you, Senator Roberti.

17                   I was going to defer to the ladies.

18           CHAIRMAN ROBERTI: You're alphabetically higher.

19                                 [Laughter.]

20           MR. HAUCK: That's probably in the only way.

21           CHAIRMAN ROBERTI: In this world of equality, don't  
22 feel badly about it.

23           MR. HAUCK: I wish the Speaker were correct, that I  
24 was out there making millions and millions when I came back to  
25 help.

26                   With respect to your question, let me just say two  
27 things. First, I've actually wanted to be a Member of the Board  
28 of Trustees of this University for a long time, because I am a  
product of what was then the California State Colleges,



1 graduating from San Jose State in 1963.

2 And actually at that time, I was involved in helping  
3 students be represented before the Trustees as we resurrected  
4 that year the California State College Student Presidents  
5 Association, which had been dormant prior to that time, and  
6 along with a friend, Jim Hearst, who was the President of Chico  
7 State, we attended each of the Trustees meetings and finally, at  
8 the end of that year, the Trustees actually agreed to formally  
9 recognize the student presidents as being legitimately in  
10 attendance at those meetings.

11 And I would say today that we've come a considerable  
12 ways. At every one of the meetings of the Trustees, students  
13 are not only represented, they're -- they have regular seats,  
14 and microphones, and an opportunity to participate in all of the  
15 proceedings of the Trustees.

16 So, I feel I have a real strong affiliation with the  
17 University. I now have two children that are part of it: one  
18 at San Diego State, and one at San Francisco State.

19 Secondly, I'm very interested in doing this because I  
20 think it's critical to the future of California that we keep the  
21 California State University system functioning, and functioning  
22 in a way that provides access to as many students as we can  
23 afford to provide, and assist students who have difficulty in  
24 affording college to get to college, because I feel strongly  
25 that higher education is the future for California. I think it  
26 has been in the past, and it will continue to be. It will be  
27 the major, I think, piece of our recovery economically in  
28 California.





1           And I think higher education generally, not just CSU,  
2 needs as much help as we can provide because, as all of you  
3 know, higher education, in the course of our budget priorities  
4 here, kind of winds up in a tough position. Prop. 98, and  
5 health and welfare requirements, often leave higher education in  
6 a position where additional funding is difficult for them.

7           So, I'm strongly committed to this system, and I'm  
8 very anxious to serve on the Board.

9           CHAIRMAN ROBERTI: Thank you very much.

10          Ms. Otomo-Corgel.

11          MS. OTOMO-CORGEL: I'm here in support of Bill Hauck.

12                           [Laughter.]

13          MS. OTOMO-CORGEL: I am looking forward to,  
14 hopefully, serving on this Board. I owe the State of  
15 California, its taxpayers, a huge debt. I'm a 13-year attendee  
16 of the California State school systems. I graduated from Cal.  
17 State Fresno the first year it became CSU. I went to UCLA to  
18 complete my dental degree, then went and did a Master's program  
19 at UCLA in Behavioral Sciences Health Education, and did an  
20 internship and another couple of years of post-doctoral  
21 periodontal, and have taught, however, at UCLA for 21 years  
22 already, starting out my junior year at the Dental School in  
23 Head and Neck Anatomy.

24           I also owe a large debt because I have 20 relatives  
25 who are graduates of this program, of the CSU system. And as  
26 with Bill, I also feel the school -- the CSU is part of a  
27 solution economically, socially, technologically for the future.

28           Education is a solution versus incarceration. I



1 mean, if I was to be a tax-paying citizen, you get your money's  
2 worth generally out of a person who has gone through a four-year  
3 college and gotten a degree and they become a very vital,  
4 tax-paying element in the future.

5 Also, the present Board, of which we have been  
6 serving for about nine months now, the three of us, would be a  
7 privilege and a pleasure to be associated with. It is a very  
8 collaborative board. We don't always agree on issues, but we  
9 have a similar mission.

10 I see this as an excellent experience and an  
11 opportunity to pay back the citizens.

12 Thank you.

13 CHAIRMAN ROBERTI: Thank you very much.

14 Rosemary Thakar.

15 MS. THAKAR: Thank you, Mr. Chairman and Members of  
16 the Committee.

17 In the interest of time, I will be very brief. I  
18 will tell you why I would like to be a Trustee.

19 As a concerned citizen, as a parent, as a volunteer,  
20 I've had a life-long interest in education. The focus of all of  
21 my volunteer efforts has been to promote the causes of children  
22 and young people, helping them to expand their cultural  
23 horizons.

24 I've worked with the Metropolitan Opera National  
25 Council, the San Francisco Opera Company, and several symphony  
26 organizations in the various places where I have lived.

27 When I was in my 40s, I was a full-time student at  
28 the University of California, Berkeley, with four teenagers at



1 home. It brought reality right into the breakfast room, let me  
2 tell you. I can relate to adult students who return to campus  
3 to expand on or to update their training.

4 I should add that four of my children have attended  
5 California universities. Two of them have gone on to post-grad.  
6 studies.

7 Let me tell you a bit about my experience. Like  
8 Mr. Hauck and Ms. Otomo-Corgel, we have been acting Trustees for  
9 the past nine months or so. We have attended all of the  
10 scheduled meetings. We have attended functions at various  
11 campuses. We've attended commencements and visited other  
12 campuses in our capacities as Trustees.

13 Prior to that, I served for 10 years on the  
14 President's Advisory Board at San Francisco State University  
15 during the tenure of Dr. Paul Romberg and Jawei Woo.

16 I also bring a no-nonsense sense of business to this  
17 body as a principal and founder of Thakar Aluminum Corporation,  
18 which specializes in recycling and secondary aluminum processing  
19 in Corona, California. We also have another facility in Ohio.  
20 Presently, I am a principal and co-founder of Mike's Furniture,  
21 which is both a manufacturing and retail concern. We employ  
22 about 250 people in Northern and Southern California.

23 Looking to the future, I would like to see -- looking  
24 to the future for the CSU in the 21st Century, I'd like to see  
25 them continuing their deep commitment to diversity at every  
26 level. I'd like to see the California Academy of Sciences  
27 program -- now, I believe, offered only at Cal. State Dominguez  
28 Hills -- I'd like to see that become a reality at each of the





1 CSU campuses so that no segment of the California population is  
2 left without the opportunity to avail themselves of the best  
3 educational opportunities offered anywhere in the world.

4 Thank you for allowing us to appear here today.

5 CHAIRMAN ROBERTI: Thank you very much.

6 Is there anyone here in support of one of the  
7 candidates?

8 MR. CRIST: Thank you, Mr. Chairman, Members.

9 Bill Crist, Chairman of the California Faculty  
10 Association, Political Action Legislative Committee.

11 I come here representing the 17,000 faculty of the  
12 California State University.

13 First, Mr. Chairman, just one second, because we all  
14 -- I would like to echo many of the comments made by others  
15 today, thanking you for your many years of service.

16 CHAIRMAN ROBERTI: Thank you very much.

17 MR. CRIST: We were just talking when we shouldn't  
18 have been back there, saying that it's touching, even, to be  
19 here for your last meeting. We very much respect the work  
20 you've done over the years.

21 As many of you know, it has always not been smooth  
22 sledding between the faculty of the California State University  
23 and the Trustees and the administration of that system. We've  
24 worked very hard in the last number of years to bring the  
25 faculty and the administration and Trustees closer together.

26 It's with a great deal of joy in my heart that I'm  
27 able to tell you that we're making considerable progress among  
28 those lines. We're now moving into an era of something called



1 interest-based bargaining: a less adversarial, more  
2 collaborative way of conflict resolution. And the current Board  
3 of Trustees has endorsed that.

4 And it's our pleasure to recommend to you  
5 confirmation of all three of the persons that stand before you  
6 today. I was able to spend a nice afternoon this afternoon,  
7 waiting for this Committee to get to us, with Ms. Thakar and  
8 Ms. Otomo-Corgel. And it was the first time that I had been  
9 able to meet and become acquainted with them, although we're  
10 acquainted with their work on the Trustees.

11 Mr. Hauck, of course, we all know, and I would like  
12 to echo the words of the Speaker and Senator Johnston in that  
13 regard. And most recently even in meetings that are still  
14 filled with controversy in the CSU Trustees, Mr. Hauck has  
15 continued to distinguish himself by calling things to the  
16 attention of all those present to be alert to the political  
17 realities of the University and the need to obtain good support  
18 and good funding.

19 We're very comfortable with all three of these  
20 persons and recommend, on behalf of the faculty, that you do  
21 indeed confirm their appointments to the Board.

22 Thank you very much.

23 CHAIRMAN ROBERTI: Thank you very much.

24 Anyone else?

25 Is there anyone in opposition? Any Member that would  
26 like to speak?

27 SENATOR AYALA: I have a question to, I guess, all  
28 three.



1           How would you assess the impact the drastic fee  
2 increases are having on students? Are there other funding  
3 sources under consideration by the CSU, other than fees and  
4 state funds?

5           MS. OTOMO-CORGEL: Because of the budgetary cutback,  
6 the CSU has become quite innovative. It's -- there's a saying  
7 from a movie called "Starman." It's: "You people on Earth are  
8 at your best when things are at their worst."

9           And you look at the nature of the Board itself. We  
10 have researched intensely. And the three of us came on the  
11 Board after hikes had already been voted in. But looking at the  
12 Presidency, looking at the Chancellor's Office and their  
13 extraordinary effort to create Town and Gown, to get other  
14 sources of funding, and still, with an incredible shortfall in  
15 funds, found it probably the most efficient way to still allow  
16 the same quality of education be provided.

17           One thing that is important for people to know is  
18 that this funding goes directly back to education, and one-third  
19 of it goes back into student loans, which is imperative when  
20 they're talking about access, and having the person, the  
21 student, who is less financially capable of going to school,  
22 there is a return of monies available.

23           SENATOR AYALA: You're providing loans?

24           MS. OTOMO-CORGEL: Yes.

25           SENATOR AYALA: What about employment for those who  
26 can take advantage of it, on or off the campus?

27           You know, our school system is for the students. We  
28 have to have adult supervision along with it, I suppose. Like





1 here in Sacramento, we have to cut back.

2 Are there areas we should be cutting instead of  
3 discouraging students from attending because of the fees they  
4 can't afford to pay? After all, that's the primary function of  
5 the system, is to provide education for the students if they  
6 want to take advantage of it.

7 Do you ever think of cutting somewhere else? Like  
8 some of your salary that you provide for the administrators,  
9 which are out-of-this-world; you know that. What can we do,  
10 other than to raise fees, and tuitions, and everything for the  
11 students, without telling you we don't need you folks or the  
12 instructors, either? What are we going to do to help those  
13 students remain in school or attend school?

14 Loans you mentioned. Perhaps jobs between classes,  
15 and so forth. We've got to do something to keep these young  
16 folks in school.

17 MR. HAUCK: Just let me add one thing, Senator.

18 There isn't one of us that wants to raise fees. And  
19 we are doing a fair amount, I think, to seek to provide  
20 additional funding in the CSU system from sources other than  
21 student fees.

22 In 1993, through the efforts of a range of people --  
23 presidents of the colleges and the universities, and other folks  
24 in the CSU system -- we raised \$109 million of non-student fee,  
25 and non-General Fund money.

26 Now, I know that you're aware that \$100 million in  
27 our world of billion dollar budgets is not a lot of money, but  
28 it's a start, and it's clearly important for us to continue to



1 do that. And the Board, as well as the Chancellor's Office, has  
2 put in place a formalized system for continuing to raise even  
3 grater amounts of money outside of increasing student fees.

4 We're going to make every effort possible to continue  
5 to do that, and to continue to bring as many students into this  
6 system as possible.

7 SENATOR AYALA: Are these students facing additional  
8 fees this coming year?

9 MR. HAUCK: I think that's yet to be determined,  
10 Senator.

11 SENATOR AYALA: Do you feel like we're going to have  
12 to do it again?

13 MR. HAUCK: To answer that, I'd have to be able to  
14 tell you how the state budget is going to come out at this  
15 stage, and I just can't do that.

16 SENATOR AYALA: We're going to cut back on, probably,  
17 Board members, or something, so we can afford you.

18 [Laughter.]

19 SENATOR AYALA: I understand your problem, and I just  
20 wondered if you were doing something to address that issue,  
21 which I'm very concerned about.

22 MS. THAKAR: Senator, I'd like to add that also the  
23 funds retrieved from the fee increases are also used to add  
24 courses, so that we are bringing as many students as the funding  
25 will allow us to do.

26 SENATOR AYALA: Adding courses that you'd normally --

27 MS. THAKAR: No, Ms. Corgel had mentioned that the  
28 funds that are realized from the fee increases are used for



1 financial aid for students whose families cannot afford the  
2 fees.

3 A part of those same funds are used to add courses  
4 where they may be needed in order for students to fill out their  
5 schedules.

6 SENATOR AYALA: Thank you.

7 CHAIRMAN ROBERTI: Senator Petris.

8 SENATOR PETRIS: Well, I'd like to comment on the  
9 fees, too, to all three of you.

10 I would urge you to communicate more frequently with  
11 the Governor. I've told this to other nominees.

12 I think the Governor's a very decent man. He  
13 inherited a terrible situation, and he did some wonderful  
14 things, especially in the first year, to try to meet the  
15 problem. But he needs help from faculty, and from Board  
16 members, and from us, and the business community, to create a  
17 climate that reverses the climate we've had for years, and that  
18 is the worst word you can utter in the English language:  
19 taxes.

20 Now, when I graduated from high school in a working  
21 class district in Oakland, I was the only one who went directly  
22 to UC. Everybody else went to work. And I've been grateful to  
23 my classmates ever since, because they financed my schooling at  
24 UC.

25 And I've always felt that it was a duty to the public  
26 to continue the commitment that we've had for the century, and  
27 which we seem to have lost lately, to pony up the money that's  
28 needed. It's for all of our children and all of our





1 grandchildren.

2           If the Governor doesn't get some encouragement from  
3 people like you, whom he appoints, where's he going to get it  
4 from? That encouragement might include pounding on the table  
5 when you have a meeting with him. He's a very reasonable and  
6 decent person, and he'll listen.

7           But he's constrained. He tried it in his year. He  
8 approved a tax program to help make up part of the shortfall,  
9 and he got into big trouble with his own party, and they  
10 threatened to -- well, they told him they were not going to  
11 endorse him for re-election. So naturally in his second year,  
12 taxes were simply not even negotiable. Didn't even talk about  
13 them.

14           But if there'd been a different climate, you wouldn't  
15 have had to raise these fees like you're doing every year to an  
16 enormous amount. You might as well privatize all our schools  
17 and colleges. We're fast turning our higher education system  
18 into a private school system, even with the part that you give  
19 for financial aid. The figures show at the Cal. State level  
20 thousands of students just fail to show up, and thousands who  
21 were planning to go to the Cal. State system simply didn't sign  
22 up because of the staggering increases in fees. Same thing's  
23 happening at UC. This latest increase for UC, I don't know what  
24 it's going to do; you know, what kind of an impact.

25           So, I would urge you, in addition to what you  
26 deliberate on in your meetings, you ought to take this up. Just  
27 say it's not carrying out the California tradition.

28           We like to talk about our marvelous university



1 systems, both UC and Cal. State, and it's still one of the best  
2 in the world, but I think one of the big secrets of its success  
3 was, both systems were open to everybody who had the grades.  
4 And they didn't have to break the bank of the family to go to  
5 school. Now they do. They either do that, or they go out and  
6 put the family in hock. It isn't just student loans. Parents  
7 get loans; uncles and aunts get loans; godfathers get loans to  
8 help people get through school. It shouldn't be that way.

9         It's a public responsibility, and we haven't been  
10 educating the public on the economic benefits to California, to  
11 say nothing of culture and all these other things, trade, and  
12 commerce, and so forth, enormous benefits that we get back  
13 directly. For every dollar that we spend on the system, we get  
14 much more than that back.

15         And it's been swept up in this tide of, "I'm not  
16 going to go for a tax no matter what." We're having trouble  
17 with some Members right now saying, "We're not going to go for a  
18 tax to help repair the damage in Southern California."

19         We're fast becoming a state of isolated individuals  
20 who don't seem to give a damn about the rest of the people in  
21 our community. And we're not treating our students right. I  
22 think it's abhorrent that we've had these successive increases,  
23 year after year.

24         And now this new policy of tying it -- making it a  
25 tuition instead of a fee that goes for other costs, and relating  
26 it to the cost, a certain percentage of the cost. Your program  
27 now is one-third of the cost. I guess before long, it'll be 40  
28 percent, and then 50 percent. That's the way it happened in





1 other states. Once they broke that dam and the water came  
2 rushing through, those costs just escalated.

3 And the net result is discouraging young people, who  
4 are well qualified and have the grades, from taking advantage of  
5 the system. A lot of them are going out of state to schools  
6 that we used to consider inferior compared to ours in other  
7 states, close, across the border in Nevada and other states, all  
8 over the place. They're fleeing our state. They're refugees  
9 from our state because of these horrible policies.

10 I would urge you to give that a lot of thought and  
11 encourage the Governor. I think he'll do it if he senses that  
12 people want it. But all he's been hearing is negatives: don't  
13 do that, don't do that. So, he's kind of trapped. He's only  
14 one person, and he needs a lot of help.

15 I would encourage all of you to refocus on that.

16 Thank you, Mr. Chairman.

17 CHAIRMAN ROBERTI: Thank you, Senator.

18 Is there anyone else here who would like to testify?  
19 Senator Craven.

20 SENATOR CRAVEN: Thank you very much.

21 I had something that was no earth-shattering  
22 question I was going to ask you.

23 But I want to preface that by saying how much I  
24 appreciate the words of Senator Petris, who, once again, has  
25 exhibited his great introspection and reasonableness in making  
26 decisions of the nature which face all of us here every day. We  
27 so frequently, particularly I as a Republican here, hear so many  
28 comments from other Republicans who look askance, I guess, at





1 the Governor because things haven't just really bounced along  
2 like they did back 10 years ago, and there's very good reason.  
3 You know, 10 years ago we didn't have the fires, the quakes, the  
4 floods, the landslides, and the riots, all within one term. But  
5 the Governor, I guess, was just lucky. He got them all.

6 So, I do, Senator Petris, I really do appreciate  
7 that, but it's nothing unusual for you. You're always that way,  
8 and I'm most appreciative.

9 What I wanted to ask you was, have any of you been to  
10 California State University, San Marcus?

11 MS. THAKAR: Not yet.

12 MR. HAUCK: Not yet.

13 MS. OTOMO-CORGEL: No, not yet.

14 MR. HAUCK: We just -- actually, today we saw a real  
15 good video on the development of the campus.

16 SENATOR CRAVEN: Well, I would like to take this  
17 opportunity, on behalf of President Bill Stacy, Dr. Stacy, and  
18 the Senate, to invite you down. It would be delightful to have  
19 you, and I'd be delighted to be your host. So, keep that in  
20 mind, if you will.

21 MR. HAUCK: Senator Roberti, can I just add, I know  
22 this is not proper, but I loved Bob Moretti, and I know that you  
23 were his seat mate. And I know how he felt about you.

24 Your service to the State of California has been  
25 fantastic. Bob's was, too. I wish he'd been able to give it  
26 more time, but I want to add my -- it's not congratulations,  
27 it's just, I guess, thanks for the service.

28 CHAIRMAN ROBERTI: That's very touching. Thank you



1 very much.

2 I was his seat mate. I learned much about how to be  
3 a Legislator from him.

4 The only thing I didn't learn from him was, he was an  
5 inveterate smoker --

6 MR. HAUCK: And chocolate eater.

7 CHAIRMAN ROBERTI: -- and chocolate eater. I learned  
8 that.

9 [Laughter.]

10 CHAIRMAN ROBERTI: So, he was a great mentor and very  
11 much missed.

12 In my district, Senator Craven mentioned San Marcos.  
13 As you know, I represent the Northridge campus, or two-thirds of  
14 it, both geographically and, unfortunately, maybe physically  
15 now.

16 I certainly commend its rebuilding to you as a first  
17 priority of your efforts as well as our efforts.

18 MS. OTOMO-CORGEL: President Wilson yesterday showed  
19 us the devastation. Still you hear, but when you see what has  
20 happened, it's overwhelming.

21 On behalf of the Board of Trustees, we'd like to  
22 thank you for walking through that campus. We heard you were  
23 there, and it means a lot to the people and to the support.  
24 It's just uplifting that you would do that. Thank you.

25 CHAIRMAN ROBERTI: Thank you. That was between  
26 aftershocks.

27 But they have a command center there that is awesome,  
28 very efficient. The use of security personnel from the other



1 campuses who all came in on a cooperative effort was amazing.  
2 So, CSU is doing something very right as far as pulling together  
3 and, through mutual efforts, making the best of a very, very  
4 dire situation.

5 Do I hear a motion?

6 SENATOR CRAVEN: Move.

7 CHAIRMAN ROBERTI: Senator Craven moves that  
8 Mr. Hauck, Ms. Otomo-Corgel, and Ms. Thakar be recommended to  
9 the Floor for Trustees of the California State University.

10 Secretary will call the roll.

11 SECRETARY WEBB: Senator Ayala.

12 SENATOR AYALA: Aye.

13 SECRETARY WEBB: Ayala Aye. Senator Beverly.

14 SENATOR BEVERLY: Aye.

15 SECRETARY WEBB: Beverly Aye. Senator Petris.

16 SENATOR PETRIS: Aye.

17 SECRETARY WEBB: Petris Aye. Senator Craven.

18 SENATOR CRAVEN: Aye.

19 SECRETARY WEBB: Senator Craven Aye. Senator  
20 Roberti.

21 CHAIRMAN ROBERTI: Aye.

22 The vote is five to zero; the confirmations are  
23 recommended to the Floor.

24 Thank you and congratulations.

25 John T. Knox, Member of the Board of Directors,  
26 Hastings College of Law.

27 We'll ask you why you feel you're qualified to assume  
28 this position, but that's almost gilding the lily. We know you





1 so well, and we know your ability so well.

2 MR. KNOX: Well, thank you, Mr. Chairman, Members of  
3 the Committee.

4 I've been serving for the last 12 years on the Board.  
5 I was appointed right after I left the Legislature in 1980.  
6 I've enjoyed it. It's been interesting and, as they say in  
7 education, challenging.

8 I'd like to continue my service, and Governor Wilson  
9 was kind enough to reappoint me for your consideration.

10 We have a lot to do at Hastings. Legal education is  
11 at a turning point, I think, in our society. This is one of the  
12 largest publicly operated law schools in the country. It has a  
13 distinguished faculty, and as the years have passed, has  
14 increased in its prestige.

15 There are a lot of issues in legal education, and the  
16 tuition issues that have been mentioned earlier are tacking us  
17 just as well; we have to deal with those. We have tried at  
18 Hastings over the years to provide, through our Legal  
19 Opportunity Program, opportunities for poor, disadvantaged, and  
20 minority students that, frankly, other law schools have not  
21 provided. We are continuing with that program in very difficult  
22 economic circumstances and plan to do that, and I want to be  
23 part of that.

24 We have problems of logistics, of property dealings,  
25 and other things that I'm interested in and want to see  
26 concluded.

27 So, I would be pleased to serve an additional term.

28 CHAIRMAN ROBERTI: Thank you very much, Mr. Knox.



1 Do I hear a motion?

2 SENATOR CRAVEN: Move.

3 CHAIRMAN ROBERTI: Senator Craven moves.

4 Is there anyone in the room in opposition? Support?

5 Secretary, call the roll.

6 SECRETARY WEBB: Senator Ayala.

7 SENATOR AYALA: Aye.

8 SECRETARY WEBB: Ayala Aye. Senator Beverly.

9 SENATOR BEVERLY: Aye.

10 SECRETARY WEBB: Beverly Aye. Senator Petris.

11 SENATOR PETRIS: Aye.

12 SECRETARY WEBB: Petris Aye. Senator Craven.

13 SENATOR CRAVEN: Aye.

14 SECRETARY WEBB: Senator Craven Aye. Senator  
15 Roberti.

16 CHAIRMAN ROBERTI: Aye.

17 The vote is five to zero; confirmation is recommended  
18 to the Floor.

19 MR. KNOX: Could I say, Mr. Chairman, that you and I  
20 served together in the Assembly, and later, when you moved over  
21 to the Senate, and I've admired your work. I think you've done  
22 a magnificent job over the years in keeping this as one of the  
23 great deliberative bodies of the United States.

24 I wish you well in the future, and I may have to join  
25 Willie's committee.

26 CHAIRMAN ROBERTI: Thank you, thank you. From you,  
27 it's very much appreciated.

28 Ms. Ana M. Olivarez, Warden of Deuel Vocational



1 Institution, Department of Corrections.

2 Ms. Olivarez, you're the last of our appointees, but  
3 not least. It's very good to have you with us.

4 MS. OLIVAREZ: Thank you, Senator.

5 CHAIRMAN ROBERTI: We'll ask you why you feel you're  
6 qualified to be in this position?

7 MS. OLIVAREZ: Thank you very much.

8 I come to you today with more than 20 years of  
9 experience in state government. I'm on my 21st year. Fourteen  
10 of those years have been in the Department of Corrections.

11 I've also worked in supervisory and managerial  
12 positions at the California State Personnel Board, the  
13 California Energy Commission, and the Department of Health.

14 Prior to assuming the duties of Warden about 18  
15 months ago, I acted for six months as acting Warden prior to the  
16 Governor's appointment. I've also served as Chief Deputy Warden  
17 of the State Prison in Susanville, and Associate Warden at  
18 Folsom State Prison. And I've also worked as an Associate  
19 Warden in the Prison Construction Program. So, I have a variety  
20 of experience that I bring to the position.

21 My formal education, I have a Bachelor's Degree in  
22 psychology from the University of California at Davis, and I've  
23 also completed a number of graduate courses in administration of  
24 justice

25 CHAIRMAN ROBERTI: Thank you very much, Ms. Olivarez.

26 Is there anyone here in the audience in support?  
27 Please come forward.

28 MR. SEARCY: Thank you, Mr. Chairman and Committee





1 Members. Again, I am Frank Searcy, Chicano Correctional Workers  
2 Association President.

3 Ms. Olivarez is highly supported for this  
4 confirmation by this Association. As she has stated, her  
5 academic qualifications are highly desirable and fit very nicely  
6 into her position. Her varying experience in state service, and  
7 administration of the prison, also with the State Personnel  
8 field, and not to mention also the planning and construction, so  
9 you can see that she has a varying of experience in that area of  
10 the prison system.

11 Again, she has, for the last few months, been in an  
12 institution that at times is somewhat not easy to run due to the  
13 problems that the inmate population presents. However, she has  
14 been highly, highly successful in dealing with problems there.

15 So again, this Association strongly supports her  
16 confirmation.

17 Thank you very much.

18 CHAIRMAN ROBERTI: Thank you very much.

19 Anyone else? Please come forward.

20 MR. WARE: Thank you, Mr. Chairman and Members. I'm  
21 Jim Ware, Special Projects Manager for the Department of  
22 Corrections.

23 I'm here on behalf of ABCW and also Bishop Leon  
24 Ralph, who was unable to make it up. We have a letter before  
25 you expressing strong confidence in both Warden Olivarez and  
26 Warden Marquez, and we strongly support them.

27 CHAIRMAN ROBERTI: Thank you very much.

28 Is there anyone here in opposition? Please come



1 forward.

2 MS. ORTEGA: Thank you, Senator Roberti, Honorable  
3 Senators.

4 I'm here to strongly oppose the confirmation of Ana  
5 Maria Olivarez.

6 My opposition against her is a Superior Court  
7 decision where she was involved in a racial and sexual  
8 harassment decision that went on for 12 years -- that has been  
9 going on for 12 years. It was supposed to be settled on  
10 January 6th, and I submit this to the -- it was supposed to be  
11 settled on January 6th, 1989, before Superior Court, Honorable  
12 Joseph De Cristoforo.

13 The agreement was that I was coming back to work for  
14 the State of California. And no one, not Ana, not Nora  
15 Brusuelas, not Antonio Aguilar, no one in the State of  
16 California was going to impair or obstruct my employment with  
17 the state.

18 That has not happened. Yesterday, I received another  
19 adverse action, and this is state policy. And I'm talking to  
20 you because the Department of Corrections has spent hundreds and  
21 thousands of dollars in sexual harassment lawsuits throughout  
22 the last years. They settled a case for 500,000 where they  
23 could have taken care of it for 30,000 in federal court. They  
24 settled a case for 480,000 on sexual harassment who was a person  
25 that did her background check.

26 Mr. James Gomez, who is here in the audience, has  
27 promised to you several times before this body and other sexual  
28 harassment hearings in the Legislature that this will stop.



1 Well, if it has stopped, I wouldn't be here today.

2 This goes back from 1981 to 1985, where she was the  
3 Hispanic Project Manager of the State of California. And we're  
4 both Hispanics. We are both female; we're both the same age.  
5 We even have the same name. We're both educated. We're both  
6 competent; we're both educated, and we both have worked with the  
7 Hispanic community for many years. There's only one exception  
8 between her and me; it's that I stand up for justice, and she  
9 supported a corrupt system.

10 My testimony before the judge was that the State  
11 Personnel Board was corrupt. Was corrupt because they had six  
12 years to take immediate and corrective action to correct the  
13 sexual harassment and they failed to do that. And Ana was the  
14 first person that I contacted in 1981 as a new employee when the  
15 harassment started. As it anticipated [sic] in '82, I still  
16 contacted her, and we met for five hours at her aunt's house,  
17 and I told her everything. At that time, all she had to do was  
18 pick up the phone, write a memo, and say, "What's going on at  
19 the Department of Finance?" She didn't do that.

20 I got fired. Went to the appeals hearing. And the  
21 day before I'm going for my appeals at the State Personnel  
22 Board, I met with Cristina Cervantes, who was President of CAFE  
23 of the State of California, a civil rights organization. And  
24 she says, quote, "Ana told us not to help you because you were  
25 flunking probation at the Department of Health Services -- I  
26 mean, at the Department of Finance."

27 My records in the courts will show that I had  
28 satisfactory work performance and outstanding work performance





1 in my state service. The records will also show in Superior  
2 Court that they settled -- that they settled, and I was going to  
3 come back to the State of California, and nothing was going to  
4 happen to me again.

5 Unfortunately, what the court orders say and the  
6 judges say is not what bureaucrats do or what state officials  
7 do. And maybe she had nothing to do with this one, but I  
8 seriously doubt it, because at that time, again, I say, she has  
9 had six opportunities -- '81, '82, '83, '84, '85 -- before I  
10 name her in my Superior Court lawsuit. And because -- it's  
11 right here. It was settled before Judge De Cristoforo.

12 At the State Personnel Board on April the 5th, 1985,  
13 Senate Rules asked for an investigation into my case because I  
14 had been fired twice by the same individual. This individual  
15 was Lottery Director, Chon Gutierrez. And I testified against  
16 him here at this confirmation. He went ahead and got confirmed,  
17 and thank God for justice. Thank God for the judges that found  
18 him guilty of sexual harassment, and thank God for Pete Wilson,  
19 who had the guts to fire him for mismanagement.

20 It's sad that we have to come and oppose our own.  
21 Chon Gutierrez is Hispanic. Jose Alvarez is Hispanic,  
22 administrative law judge that ruled against me. Ana Olivarez is  
23 an Hispanic female.

24 And throughout the legal system, everybody kept  
25 asking me: why would your own discriminate against you?  
26 They're all Hispanics. But the evidence will show, and you have  
27 it right in front of you, because I filed and I did name the  
28 individuals. I tried everything in state government to resolve



1 the issues. I've called you; I write the letter. I did the  
2 research to avoid costs to the taxpayers of the State of  
3 California.

4 But nobody listens. No one has listened, except Pete  
5 Wilson that fired Lottery Director, Chon Gutierrez.

6 I named a person by the name of Antonio Aguilar, and  
7 I'll ask you, Ana, do you know him?

8 CHAIRMAN ROBERTI: You have to ask that through the  
9 Chair.

10 Why are you asking about him?

11 MS. ORTEGA: Antonio Aguilar was hired by Nora  
12 Brusuelas, who is the Department of Corrections discrimination  
13 manager. She's a CEA I, I believe.

14 Ms. Brusuelas and Ms. Olivarez have a long  
15 relationship, a good, I would say, 10-15 years of friendship,  
16 plus working relationship.

17 Mr. Aguilar filed against me, a request to file  
18 charges, meaning another adverse action against me, because I  
19 named him in a civil rights lawsuit on sexual harassment.

20 All of this was presented to Faith Gagan, the  
21 Attorney General. She had copies of everything, and Ana has  
22 known for a long time that this was in the process.

23 So, Mr. Aguilar files request to file charges. The  
24 Department of Health Services goes ahead and investigates for  
25 nine months, and goes ahead and does an adverse action against  
26 me, a suspension for a month and a half. And here she is,  
27 trying to get a job for \$80,000 a year, responsible for many  
28 employees, responsible for civil rights, responsible for women



1 on sexual harassment. Responsible for inmates, responsible for  
2 Hispanics.

3 And I would like to ask, what gives this person, Ana  
4 Olivarez, Mr. Gomez, or anybody in the State of California to  
5 violate the Constitution, to violate court orders, to violate  
6 this policy of the State of California where sexual harassments  
7 should not be something that should be used in an adverse  
8 action? Should not be something -- it is unlawful. It is  
9 reprisal. It is harassment for somebody to take action against  
10 somebody that has exercised their rights. That's in every  
11 federal civil rights, Constitutional law.

12 They're educated. They know better.

13 And here is the manager of the Department of  
14 Corrections, who is her best friend, a close friend, they  
15 socialize together, they go out together, taking -- and her  
16 employee taking adverse actions against me. It is a waste of  
17 taxpayers' money. We can't afford that in the State of  
18 California.

19 If you're going to establish policy that protects the  
20 individual, let's start with her.

21 CHAIRMAN ROBERTI: Thank you, Ms. Ortega.

22 Is there anyone else here who wishes to testify?

23 Then Ms. Olivarez, you can conclude, and you might  
24 address the question that Ms. Ortega raised regarding your  
25 understanding of your relationship with Mr. Aguilar, among other  
26 things.

27 Senator Petris has a question.

28 SENATOR PETRIS: How many individuals have you filed





1 charges against for sexual harassment, and are they in your  
2 particular work area?

3 MS. ORTEGA: They were, Senator. Not any more.

4 SENATOR PETRIS: At the time of the filing, they  
5 were?

6 MS. ORTEGA: Yeah, at the time of the filing they  
7 were.

8 SENATOR PETRIS: Are they fellow employees?

9 MS. ORTEGA: They're the Director -- Deputy Director,  
10 Department of Finance, Chon Gutierrez. He fired me twice for  
11 complaining of sexual harassment and racial harassment.

12 SENATOR PETRIS: Against him?

13 MS. ORTEGA: Against him and a supervisor. And the  
14 Superior Court decision's right in front of Senator Roberti.

15 SENATOR PETRIS: And the Court has made a finding  
16 that --

17 MS. ORTEGA: They made a finding --

18 SENATOR PETRIS: -- each of them was engaged in  
19 sexual harassment of you personally?

20 MS. ORTEGA: Yes, it was 14th Amendment, United  
21 States Constitution. It's Ernestina Bojemia Boyen vs. City of  
22 East Chicago, Indiana [sic], United States Court of Appeals, 7th  
23 Circuit, August 28, 1986. They drew a parallel as to what the  
24 case looked like from -- so that's what my case is based under.

25 Then I was the first one in the State of California.  
26 Mary Lavardo, who's now an attorney, was the first one on sexual  
27 harassment, and she settled out of court for 100,000. And I was  
28 the first one, unfortunately, because no one did anything for



1 all those years, to settle on racial and sexual harassment, 14th  
2 Amendment, United States Constitution.

3 SENATOR PETRIS: Did you file in the state court or  
4 federal court?

5 MS. ORTEGA: I filed it both, but I did not know this  
6 one would go into settlement, that they force you to settle.  
7 You know, if you have any pending actions against other people,  
8 they force you to settle. And at that time, I was unaware that  
9 -- I knew that Mr. Collie was semi-retired, almost retired, but  
10 I was -- probably he knew, and he didn't want to share that he  
11 was also dying of a tumor. And so he -- he suggested, he told  
12 me to settle, take the money, you know. You proved your point.  
13 He died; he passed away last year.

14 CHAIRMAN ROBERTI: Ms. Olivarez.

15 MS. OLIVAREZ: Senator, would like me to recount the  
16 events, or what would you like?

17 CHAIRMAN ROBERTI: As best as you can, to respond to  
18 the point which Ms. Ortega has made, that you did not respond to  
19 her accusation of sexual harassment, or that you apparently,  
20 according to her testimony, interjected yourself to say that  
21 nothing would be done in this area, or something, with other  
22 people who were in official capacity.

23 MS. OLIVAREZ: Okay.

24 The time that she's talking about, I was the Manager  
25 of the Hispanic Employment Program that was located at the State  
26 Personnel Board. That program does not exist anymore, but it  
27 did at that time.

28 Ms. Ortega came to see me. She had some concerns



1 about her relationship with her immediate supervisor at the  
2 Department of Finance. She recounted some remarks that he had  
3 made to her which were of a sexual nature and very derogatory  
4 toward Hispanic women.

5 I asked her at that time -- I met with her several  
6 times, and as she indicated, one time she found me at my aunt  
7 and uncle's house down in Monterey Park and did come and spend  
8 five or six hours with me there.

9 Unfortunately, the situations that she would describe  
10 were situations that occurred between two people with no other  
11 witnesses. I asked her, "Was anybody else there? Did anybody  
12 else hear him say this? When did this happen?"

13 Well, the encounters that she described, there were  
14 no other witnesses. They were remarks that took place between  
15 her and -- I never spoke to her supervisor. I only spoke to  
16 Ms. Ortega, so I don't know his side.

17 But she -- the way she described it, it was between  
18 two people. It was a "he said/she said" kind of a situation.

19 I gave her my best advice at that time, which was to  
20 keep a diary, keep a journal of the events that would take  
21 place. That someone who would make remarks like that would  
22 probably slip up and do it in front of somebody else. And at  
23 that point, she needed to be alert as to who else would be there  
24 to hear the remarks, and to take note of the date and time. And  
25 I gave her my best advice, and she went away.

26 She came back a couple of months later and indicated  
27 that the Department was going to terminate her because she had  
28 falsified her application for state service. She had indicated





1 on her application for the position at the Department of Finance  
2 that she had a Bachelor's Degree, and in addition to that, that  
3 she had completed certain units in accounting administration.

4 The Department of Finance had done a background check  
5 based on complaints that were brought forward by her supervisor,  
6 and they discovered that she did not have the degree that she  
7 said she had, nor had she completed the required units. So  
8 therefore, she did not meet the minimum qualifications for the  
9 position that she held at the Department of Finance.

10 She came and admitted to me that she had a couple of  
11 incompletes that she had not finished, and she in fact did not  
12 have the units that were required or the degree. She asked me  
13 to be her advocate and to help her.

14 I told her I did not have any jurisdiction, that a  
15 termination fell under the jurisdiction of the hearing office at  
16 the State Personnel Board. And working in the Affirmative  
17 Action office, I was there for administrative, bureaucratic type  
18 problems, and certainly not matters that would fall under the  
19 purview of administrative law judges. I am not an attorney, nor  
20 am I a judge.

21 I gave her some advice then, which was to get an  
22 attorney. And I described the appeal process to her. Told her  
23 how to file, and recommended that, because this was a  
24 termination, and it was very serious, that she really needed  
25 competent representation and that an attorney would be best.

26 She did appeal her case to the State Personnel Board,  
27 and she was not successful in her appeal.

28 Ms. Ortega did file in a number of places, both with



1 the state and federal agencies, a discrimination complaint. And  
2 I, in fact, testified in her support. And I believe, I'm not  
3 certain what she has given you, but I believe what you have in  
4 front of you is the negotiated settlement agreement, which was a  
5 no-fault agreement between the Department of Finance and  
6 Ms. Ortega, wherein she was given an amount of money.

7 Prior to that settlement, I was subpoenaed as a  
8 witness, and I testified in great detail about my conversations  
9 with Ms. Ortega. The administrative law judge asked me at that  
10 time what my opinion was of her case, and I answered that I  
11 believed that she was the subject of sexual harassment.  
12 Unfortunately, it was not a situation that could be proven. So,  
13 for that reason, I could not take it any further.

14 Ms. Ortega did file a request to file charges against  
15 me with the State Personnel Board, and that was denied. The  
16 Board did, however, grant her permission to compete in civil  
17 service examinations, and I understand that she has exercised  
18 that privilege and is once again a state employee.

19 I've not had any contact in any official capacity  
20 with Ms. Ortega since 1982. And all of my contact with  
21 Ms. Ortega in this regard has been in my official capacity as a  
22 manager in state government.

23 MS. ORTEGA: May I respond?

24 CHAIRMAN ROBERTI: Yes.

25 MS. ORTEGA: The fact that she says --

26 SENATOR AYALA: Can I interrupt for a moment?

27 A lot of the things we're hearing here must have been  
28 hearsay allegations that we're hearing from whomever out there.





1           The point, is this the proper forum for this kind of  
2 a discussion? Have we investigated --

3           CHAIRMAN ROBERTI: That's a good point. We do get  
4 into these personnel issues on Corrections because they're a  
5 very volatile place, I guess.

6           Let's let Ms. Ortega be able to respond.

7           SENATOR AYALA: This is going to be a ping-pong sort  
8 of a thing, back and forth, and, you know, we have other  
9 business.

10          MS. ORTEGA: Senator Ayala, with all due respect, let  
11 me respond to Ana's false testimony before you.

12          The fact that she said that there was nobody to  
13 witness this, you have in front of you, and Senate Rules has a  
14 copy of that brief where there was eight employees that  
15 witnessed the sexual harassment. They were my co-workers.

16          And thank God for them, that they stood by me for  
17 four years in the courts, risking their jobs, their livelihoods,  
18 their careers, so somebody could get justice. They happened to  
19 be black. They were all black. My attorney was black.

20          And I spend 20 years of my life advocating for  
21 Hispanics and advocating for women so women like her could come  
22 up to that category of Warden.

23          Let me just say one more thing. Ana had the  
24 opportunity in 1985 to conduct an investigation or provide the  
25 new hearing. That's why she was named in the lawsuit in 1988.  
26 They did absolutely nothing. They had my case there for 15  
27 months, and Walter Brown and her did absolutely nothing.

28          At the same time that they had my case, they





1 investigated Karen Holliston from Department of Corrections,  
2 sexual harassment, and Alvarez, the same judge that ruled  
3 against me, awarded her \$120,000. This is state money, state  
4 time, state attorneys, public policies.

5 Then she comes before you in 1994 and says: I have  
6 done an excellent job; I have done this; I have done that.  
7 Well, you forgot one victim on your way up.

8 And she has known about this. She says she was not  
9 involved. She had opportunities after 1985.

10 When I'm done with the administrative process,  
11 there's nothing else you can do but go hire an attorney and  
12 spend hundreds and thousands of dollars, and hours, weekends,  
13 holidays, Thanksgiving, vacations, whatever, to try to get  
14 justice.

15 CHAIRMAN ROBERTI: Ms. Ortega, I appreciate the  
16 asperity of your remarks.

17 If you have a quarrel, I haven't heard that it's  
18 necessarily against Ms. Olivarez. She did appear; she did  
19 testify in your favor. You may not have agreed with her  
20 interpretation of the situation, but I don't think that's reason  
21 not to confirm her.

22 If you have a quarrel, it would strike me you would  
23 have it with those bodies that heard your case and not on the  
24 witnesses or the authorities that you called in to support you,  
25 who have to give evidence, or testify, or whatever the proper  
26 word is, to the best of their understanding of the truth. That  
27 doesn't mean that they are trying to harm you. In this case, it  
28 does appear she did, but it wasn't with the same interpretation



1 of the situation as you would like.

2 MS. ORTEGA: Yeah, she told me to go to Chon  
3 Gutierrez. That was her advice. She said, "I have known Chon  
4 Gutierrez for many, many years, and I have a lot of confidence  
5 in him."

6 Obviously, the courts did not have that much  
7 confidence in him; neither did Governor Wilson, and he did fire  
8 me twice.

9 CHAIRMAN ROBERTI: Thank you very much.

10 Would you like to conclude at all, Ms. Olivarez?  
11 Then we'll go to a vote.

12 MS. OLIVAREZ: Thank you, Senator.

13 You have in front of you my resume. I have extensive  
14 experience in the Department of Corrections as a Correctional  
15 Administrator, and I would very much appreciate the opportunity  
16 to continue my work at DVI.

17 CHAIRMAN ROBERTI: Thank you very much.

18 Is there anyone else who would like to testify?

19 Do I hear a motion?

20 SENATOR CRAVEN: Move.

21 CHAIRMAN ROBERTI: Senator Craven moves.

22 Secretary will call the roll.

23 SECRETARY WEBB: Senator Ayala.

24 SENATOR AYALA: Aye.

25 SECRETARY WEBB: Ayala Aye. Senator Beverly.

26 SENATOR BEVERLY: Aye.

27 SECRETARY WEBB: Beverly Aye. Senator Petris.

28 SENATOR PETRIS: Aye.



1 SECRETARY WEBB: Petris Aye. Senator Craven.

2 SENATOR CRAVEN: Aye.

3 SECRETARY WEBB: Senator Craven Aye. Senator  
4 Roberti.

5 CHAIRMAN ROBERTI: Aye.

6 The vote is five to zero; confirmation's recommended  
7 to the Floor.

8 [Thereupon this portion of the  
9 Senate Rules Committee hearing  
10 was terminated at approximately  
11 5:53 P.M.]

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CERTIFICATE OF SHORTHAND REPORTER

I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 1<sup>st</sup> day of February, 1994.

  
EVELYN J. MIZAK  
Shorthand Reporter





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APPEARANCESMEMBERS PRESENT

SENATOR WILLIAM LOCKYER, Chair

SENATOR WILLIAM CRAVEN, Vice Chair

SENATOR RUBEN AYALA

SENATOR ROBERT BEVERLY

SENATOR NICHOLAS PETRIS

STAFF PRESENT

CLIFF BERG, Executive Officer

PAT WEBB, Committee Secretary

RICK ROLLENS, Consultant on Bill Referrals

NANCY MICHEL, Consultant on Governor's Appointments

ALSO PRESENT

S. KIM BELSHE, Director  
Department of Health Services

JULIAN S. MARQUEZ, Warden  
Chuckawalla Valley State Prison  
California Department of Corrections

JEFF THOMPSON  
California Correctional Peace Officers Association

SANDRA R. SMOLEY, Secretary  
Health and Welfare Agency

RON E. KOENIG, Member  
Board of Prison Terms

JUDITH MCGILLIVRAY, Deputy Directory  
Department of Corrections

JAMES GOMEZ, Director  
California Department of Corrections

JAMIE SEPULVEDA-BAILEY, Member  
Youthful Offender Parole Board

ROBERTO VELLANOWETH, Private Citizen



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## P-R-O-C-E-E-D-I-N-G-S

--oo0oo--

CHAIRMAN LOCKYER: I guess our next matter is the Governor's appointees, and it begins with the appointment of Kim Belshe, which was discussed at the previous hearing.

Let me just ask, we didn't request that she return today, but if you wanted to add anything to supplement your comments from the previous hearing, you're certainly invited to do so.

MS. BELSHE: No, Mr. Chairman, unless there are additional questions that Members might like to ask.

CHAIRMAN LOCKYER: Let me inquire of Members.

Are there any additional questions? Senator Petris.

SENATOR PETRIS: Since our meeting last week, it was brought to my attention by a newspaper reporter that there was a study done at the request of your Department, probably requested before you came in, actually, for an evaluation of the education part of the programs of Prop. 99 on the tobacco, which we discussed extensively before. And there was an assessment made in the form of a report, but the reporter alleges that the report itself has not been released, and it's being delayed so that it can be edited, presumably by your Department.

My first question is, do you know anything about this? Can you elaborate on it? That's all the information I have.

MS. BELSHE: I have -- thank you for the question, Senator Petris.

I have not seen the article to which you're



1 referring. I am aware, though, that there are a number of  
2 evaluations currently underway being support by Prop. 99  
3 revenues of the health education activities.

4 I am not aware of us sitting on that particular  
5 evaluation, though I believe there is one particular study that  
6 is in the process of review within the Department, so that may  
7 be the one to which you are referring.

8 SENATOR PETRIS: That was done by Dr. Tom Novatny,  
9 who's associated with the Centers for Disease Control in  
10 Atlanta. He was asked to do the independent study.

11 Does that ring a bell?

12 MS. BELSHE: It's my understanding that the CDC has  
13 funded an analysis of the Tobacco Control Unit and the  
14 management of those programs and activities, which is separate  
15 an explicit evaluation of the programs supported by Proposition  
16 99.

17 SENATOR PETRIS: This reporter felt that maybe the  
18 request to delay and edit is for purging the report, taking some  
19 unflattering things out, which I personally feel probably isn't  
20 the case, but that's a normal apprehension that a good reporter  
21 would have. So, I thought I'd ask you, first of all, if you  
22 even knew anything about it, and if so, what the real story is.

23 MS. BELSHE: Well, I will certainly look into it. If  
24 it's an evaluation of our programs, certainly we want as fair  
25 and honest an assessment of how we're doing business as  
26 possible, so it's certainly not in our interests nor in the  
27 interest of the taxpayers to be tinkering with that. So, I can  
28 assure you, I'll take a look at it.





1 SENATOR PETRIS: Check on it.

2 Thank you.

3 CHAIRMAN LOCKYER: Are there additional questions  
4 from Members?

5 Is there anyone in the audience that would wish to  
6 make any additional comments?

7 I've had an opportunity to review the record from the  
8 previous hearing. Perhaps I might ask if Senator Watson has  
9 been able to reach you to try to schedule some discussions in  
10 Los Angeles with respect to managed care implementation?

11 MS. BELSHE: Senator Watson and I had a discussion  
12 about a month or so ago on that point, Senator Lockyer. My  
13 staff has since followed up on a number of occasions to offer my  
14 presence whenever and wherever she would so choose. So, we  
15 continue to await a response from the Senator, but we remain  
16 available at her request.

17 CHAIRMAN LOCKYER: It's been less than a month that  
18 she's expressed some interest.

19 MS. BELSHE: I will have staff follow up again, and  
20 I'll personally give a call as well.

21 CHAIRMAN LOCKYER: Thank you.

22 What's the pleasure of the Committee?

23 SENATOR CRAVEN: Move.

24 CHAIRMAN LOCKYER: Senator Craven moves that we  
25 recommend to the Floor for confirmation.

26 MS. BELSHE: I defer to you, Senator.

27 CHAIRMAN LOCKYER: First time for me; you, too?

28 [Laughter.]



1 MS. BELSHE: Actually, second.

2 CHAIRMAN LOCKYER: I might mention that at the  
3 previous hearing, I think there was perhaps some confusion.

4 Senator Petris was kind of doing a favor for me. I  
5 had asked that we put the brakes on a little bit if possible  
6 only for the purpose which I'm about to do of demonstrating the  
7 continuation of the bipartisan working arrangement that Members  
8 have enjoyed on this Committee and in this House. I was hoping  
9 to have the opportunity to vote "aye" on some of the Governor's  
10 nominees as they come before us.

11 So, I appreciate your willingness to slow down a bit.  
12 I guess it was misinterpreted by some as a new obstacle to  
13 confirmation rather than the reverse. I'm sorry for the  
14 miscommunication.

15 We have a motion before us. Call the roll, please.

16 SECRETARY WEBB: Senator Ayala.

17 SENATOR AYALA: Aye.

18 SECRETARY WEBB: Ayala Aye. Senator Beverly.

19 SENATOR BEVERLY: Aye.

20 SECRETARY WEBB: Beverly Aye. Senator Petris.

21 SENATOR PETRIS: Aye.

22 SECRETARY WEBB: Petris Aye. Senator Craven.

23 SENATOR CRAVEN: Aye.

24 SECRETARY WEBB: Senator Craven Aye. Senator  
25 Lockyer.

26 CHAIRMAN LOCKYER: Aye.

27 SECRETARY WEBB: Five to zero.

28 MS. BELSHE: Thank you very much. I look forward to



1 working with you.

2 CHAIRMAN LOCKYER: Mr. Marquez, I guess you, too,  
3 have had some opportunity to comment and testify before the  
4 Committee.

5 I would hope we'll avoid repetition and redundancy  
6 just for my sake.

7 It appeared, sir, that it left off with there being  
8 some question about the concerns of CCPOA.

9 Would you care to make any further comments, or would  
10 you wish that I ask them if they --

11 MR. MARQUEZ: I would just like to express my  
12 appreciation to appear before you again. And I'd like to thank  
13 Ken Hurdle and the Committee for looking into the issues that  
14 were raised.

15 I think I was very complete in my testimony last  
16 week.

17 CHAIRMAN LOCKYER: Mr. Thompson.

18 MR. THOMPSON: Thank you, Chairman Lockyer, Members.

19 Jeff Thompson, representing everybody's once favorite  
20 peace officer association.

21 We apologize to the Committee for the tardiness  
22 wherein we raised the concerns last week. They were looked at  
23 on their merits, which we sincerely appreciate members of the  
24 staff looking into these.

25 At this point, the Association feels the concerns  
26 were validly raised, and we're satisfied that they're being  
27 checked into and looked at.

28 We have no reason to hinder the confirmation of





1 Mr. Marquez at this time.

2 CHAIRMAN LOCKYER: Thank you for working with us in  
3 this way.

4 Is there anyone else present that would wish to add  
5 any comments?

6 Are there questions from Members of the Committee?

7 SENATOR AYALA: Move the nomination.

8 CHAIRMAN LOCKYER: Senator Ayala moves the  
9 recommendation.

10 Please call the roll.

11 SECRETARY WEBB: Senator Ayala.

12 SENATOR AYALA: Aye.

13 SECRETARY WEBB: Ayala Aye. Senator Beverly.

14 SENATOR BEVERLY: Aye.

15 SECRETARY WEBB: Beverly Aye. Senator Petris.

16 SENATOR PETRIS: Aye.

17 SECRETARY WEBB: Petris Aye. Senator Craven.

18 SENATOR CRAVEN: Aye.

19 SECRETARY WEBB: Senator Craven Aye. Senator  
20 Lockyer.

21 CHAIRMAN LOCKYER: Aye.

22 SECRETARY WEBB: Five to zero.

23 CHAIRMAN LOCKYER: Thanks.

24 MR. MARQUEZ: Thank you.

25 CHAIRMAN LOCKYER: Ms. Smoley.

26 MS. SMOLEY: Good afternoon.

27 First of all, I'd like to say congratulations to you  
28 in your new leadership position. You have a tremendous job



1 ahead of you, and I wish you well in your endeavors, and thank  
2 you for doing that for the people of California.

3 CHAIRMAN LOCKYER: Thank you. I've enjoyed working  
4 with you in the past.

5 Are there additional questions from the Members of  
6 the Committee that they feel like they haven't had an adequate  
7 opportunity to raise?

8 SENATOR PETRIS: I wanted to point out, since I made  
9 the motion for both Ms. Smoley and Ms. Belshe, that word came to  
10 me late in the day and I didn't have the opportunity. I should  
11 have taken the opportunity to apprise our other Members of the  
12 Committee, especially the Republican Members, and explain that I  
13 was going to make the motion.

14 I'm sorry about that. I think it kind of startled  
15 you. Sorry I didn't get in touch with you at least a minute  
16 before the Committee, but better late than never.

17 SENATOR CRAVEN: No problem.

18 MS. SMOLEY: It's okay.

19 CHAIRMAN LOCKYER: It's just my reputation.

20 [Laughter.]

21 MS. SMOLEY: That's fine.

22 CHAIRMAN LOCKYER: Not entirely undeserved.

23 Is there anyone in the audience that wished to add  
24 anything?

25 What is the pleasure of the Committee?

26 SENATOR CRAVEN: Move the confirmation to the Floor.

27 CHAIRMAN LOCKYER: We have a motion on the  
28 confirmation.



1 Please call the roll.

2 SECRETARY WEBB: Senator Ayala.

3 SENATOR AYALA: Aye.

4 SECRETARY WEBB: Ayala Aye. Senator Beverly.

5 SENATOR BEVERLY: Aye.

6 SECRETARY WEBB: Beverly Aye. Senator Petris.

7 SENATOR PETRIS: Aye.

8 SECRETARY WEBB: Petris Aye. Senator Craven.

9 SENATOR CRAVEN: Aye.

10 SECRETARY WEBB: Senator Craven Aye. Senator

11 Lockyer.

12 CHAIRMAN LOCKYER: Aye.

13 SECRETARY WEBB: Five to zero.

14 MS. SMOLEY: Thank you very much. I'm very pleased.

15 CHAIRMAN LOCKYER: Congratulations.

16 MS. SMOLEY: Thank you very much.

17 CHAIRMAN LOCKYER: Mr. Ron Koenig.

18 Did you come with anything prepared that you wanted  
19 to open with?

20 MR. KOENIG: I was appointed first in '85 by Governor  
21 Deukmejian, and reappointed four years later, and I have just  
22 been reappointed by Governor Wilson.

23 So, I am here for the third time before the Senate  
24 Rules Committee.

25 CHAIRMAN LOCKYER: Obviously, we've seen a very long  
26 biography of you, and to ask you why you think you're qualified  
27 for the position would probably provoke a lengthy reading of  
28 your biographical accomplishments.





1 But there are, I guess, questions from Members.  
2 Senator Petris.

3 SENATOR PETRIS: Not really a question.

4 I'm a little nervous about the use of the number  
5 three, third time. There's a very heavy atmosphere here that  
6 says: third time and you're out.

7 [Laughter.]

8 SENATOR PETRIS: I hope it doesn't prejudice you in  
9 this particular assignment.

10 CHAIRMAN LOCKYER: Other Members that would wish to  
11 inquire of Mr. Koenig?

12 Mr. Koenig, you might just reflect for me for a  
13 moment, if you would, as someone with long experience in  
14 Corrections, what it is we're correcting? That is, it seems  
15 like, perhaps, a misnomer for the Department.

16 The determinate and the indeterminate sentences have  
17 both been the fad at different phases of your career. Do you  
18 have any general observations about which seem to be more  
19 appropriate from the perspective of doing your job? That is,  
20 the strengths and weaknesses of the two approaches, and what  
21 your thoughts are about the current mixed system.

22 MR. KOENIG: Yes, thank you.

23 I particularly -- of course, I work with the  
24 indeterminate, the life prisoners, murderers, both murder one  
25 and murder two, kidnappers, and several other violent offenders  
26 in the system.

27 We sit -- we have a panel of three -- made up of two  
28 members and a deputy commission who is a civil service employee.



1 We look at the individual violator, and we have -- we go over  
2 his background, his criminal background. We consider his social  
3 factors, how he was brought up. We consider the crime itself,  
4 the viciousness of the crime. We go into his post-conviction  
5 factors: what he's done since he's been in the institution; has  
6 he upgraded educationally and vocationally. And we also look at  
7 his parole plans, and then we make a decision as to whether this  
8 person is ready to re-enter society, is going to be a  
9 contributor to society instead of a violator again.

10 And that's one reason why I like the "Three Strikes  
11 and You're Out." It's moving more of the violent crimes into  
12 the indeterminate area so that a board such as the Board of  
13 Prison Terms, people such as me, can sit and look at them, size  
14 them up, look at their backgrounds and so on, and make a  
15 decision on whether they're ready to be in the society.

16 CHAIRMAN LOCKYER: I guess, Mr. Koenig, I didn't ask  
17 you precisely enough what I was trying to get it. That,  
18 perhaps, calls for reflecting on your pre-Board years; that is,  
19 when you were a law enforcement officer, and those other phases  
20 of your career, so you weren't working just with the  
21 indeterminate population then, but criminals in general.

22 If you had any thoughts about the respective merits  
23 of indeterminate or determinate? It sounds like what you  
24 suggested is more indeterminate is, in your view, a sensible  
25 policy.

26 MR. KOENIG: I think it's important that a board or  
27 panel of people look at these violators, particularly the 667.5,  
28 which is -- Penal Code -- which lays down the violent offenders





1 within the system. These are people that we should look at  
2 their criminal background.

3 As of now, there's many of them that we are not, who  
4 are determinate sentencing prisoners who are sentenced,  
5 automatically released when they've served their time. These  
6 are the type of people who have a violent past, who have  
7 committed several crimes since then, and then finally end up in  
8 the prison system maybe two or three times.

9 Somebody really ought to be looking and saying,  
10 "You're not ready to get out yet. You have time that you have  
11 to program. You have to change from the criminal you were when  
12 you came in the prison system to where we're finally going to  
13 release you back to society."

14 CHAIRMAN LOCKYER: Do you feel that the dangers or  
15 criticisms of the old indeterminate as to its arbitrariness and,  
16 perhaps, occasional racial bias have been eliminated in the  
17 current system?

18 MR. KOENIG: I think so. Senator Nejedly, who was  
19 the author of the determinate sentencing bill back in 1977, we  
20 invited him to sit in on one of our hearings, the Board of  
21 Prison Terms hearings here, a couple or three years ago. And  
22 the Senator stated after he sat in the hearing that this was the  
23 type of hearing that, if we'd had that type of consideration in  
24 depthness that we go into the backgrounds, and the various areas  
25 that we go into, and the criteria we used, that we probably  
26 would never have gone into the determinate area.

27 So, I think that was a real plus, in that we do -- we  
28 have a very extensive hearing. We make sure that before we





1 release that person, parole that prisoner, that he's done  
2 everything that we feel is necessary, and he's a good bet to be  
3 a productive member of society once again.

4 CHAIRMAN LOCKYER: Senator Ayala.

5 SENATOR AYALA: Mr. Koenig, Proposition 89 of 1988  
6 gave the Governor the right to revoke or change decisions of the  
7 Board of Prison Terms and the Youthful Offenders Parole Board.

8 My question to you is, under what circumstances  
9 should the Governor have authority to review and inmate's  
10 established parole date?

11 MR. KOENIG: I think it's important that the Governor  
12 looks at decisions that are made by his appointees, trusting --  
13 if there's any mistakes made, it is another check and balance,  
14 is actually what he is doing.

15 He's looking at it in depth. I presume he has an  
16 attorney that does this. He looks at all the facets that we  
17 make a decision on, and at times he points out that maybe that  
18 panel didn't give enough weight to the severity of the crime, or  
19 give enough weight or overlooked, maybe, his prior criminal  
20 record to the extent that it was a violent crime here.

21 We do do four hearings a day, where it takes a  
22 considerable amount of time. And there's a possibility that we  
23 do overlook some facets that the Governor does see and sends it  
24 back to us. We sit en banc with the entire Board, and we go  
25 over that case once again. And if we see that, yes, the  
26 Governor was right, then we refer it to a recission hearing.  
27 Another panel looks at it, and then it goes back to another  
28 hearing.



1           SENATOR AYALA: Does the Governor have a time  
2 limitation when he can change the determination of your Board,  
3 or is it if you don't hear from the Governor, it carries out  
4 what the Board decides to do?

5           MR. KOENIG: Yes, there is a time limitation on it,  
6 90 days that the Governor --

7           SENATOR AYALA: Ninety days?

8           MR. KOENIG: I believe it's 90 days that the Governor  
9 can look at it, or must look at it and send it back to us.

10          SENATOR AYALA: If you don't hear from him, that  
11 process continues?

12          MR. KOENIG: Yes, that's right.

13          SENATOR AYALA: Thank you.

14          CHAIRMAN LOCKYER: Senator Petris.

15          SENATOR PETRIS: You know, there are a lot of bills  
16 pending now on the release time, time off for good behavior,  
17 ranging from cutting it down to 15 percent to eliminating it.

18                 Can you give us your views? Maybe you could educate  
19 us. Why did we enact the program that offers this inducement?  
20 As I remember the current law, it's 50 percent. It was carried  
21 by a very conservative, get-tough kind of Legislator, Bill  
22 Baker, who is now in Congress, and signed by a get-tough  
23 Governor.

24                 Now that statute is under tremendous assault from the  
25 public because of recent events.

26                 Tell us, what is the benefit, if any, of having this  
27 kind of an inducement to the prisoners, instead of just making a  
28 fixed period of time and make them serve every single day of



1 that period?

2 MR. KOENIG: I think there's a great benefit,  
3 although I'm not associated with the California Department of  
4 Corrections, we do work with them very closely.

5 I think California can be proud that the California  
6 Department of Corrections has not had the riots that other  
7 states have witnessed. They have not had the problems within  
8 the Department that other states have seen. That's part of it,  
9 although good management and our correctional system -- our  
10 correctional officers are very well trained.

11 The other reason is that these prisoners have  
12 something to work for. They're not going to get into trouble if  
13 they know they're going to lose good time. This costs them  
14 personally, and that's a very important factor in control within  
15 the prison system. That's one good reason for it.

16 If they see -- if a prisoner sees that he can work  
17 for something that's going to benefit him, and good behavior is  
18 a good example of why giving good time, if they -- and the  
19 lifers are the same way. Once we give a date to a lifer, then  
20 we go back year by year, and we look at his progress each year  
21 that he's been in the prison system. Has he programmed? Has he  
22 stayed out of trouble, received no 115s? That's a disciplinary  
23 within the CDC system. Has he participated in self-help, and so  
24 on down the line.

25 And we can give four months' good time,  
26 approximately, or more or less, depending on the panel. And we  
27 look at that, and they know this. The prisoners know this. The  
28 prisoner knows that he'd better behave himself or it's going to





1 cost him good time.

2 SENATOR PETRIS: So you think it works well?

3 MR. KOENIG: Yes, I do.

4 SENATOR PETRIS: So, you wouldn't support, or would  
5 you, a bill that either eliminated good time altogether, or  
6 reduced it far below what we have now?

7 MR. KOENIG: I really haven't thought about it. I  
8 would have to look at the bill and see, you know, exactly what  
9 it said.

10 SENATOR PETRIS: Well, the Governor has said, "I  
11 don't see why we should release prisoners because they've done a  
12 good job making license plates. That doesn't necessarily make  
13 them a good citizen or a good risk." He was oversimplifying,  
14 probably on purpose.

15 So, without looking at a bill, I'm asking about the  
16 general notion: should we stay with what we have, or should we  
17 start reducing the amount of time off that we give?

18 MR. KOENIG: Senator, in my area that I should speak  
19 to, we have the option. The panel has the option, like I said,  
20 going year by year. So, we can either give no time whatsoever  
21 of good time, or we have the option to give two months, four  
22 months, six months, whatever it may be. I think that's really  
23 the area that I could speak to.

24 SENATOR PETRIS: So the time off is not automatic; is  
25 it?

26 MR. KOENIG: No.

27 SENATOR PETRIS: There has to be something  
28 demonstrated at the hearing that you have?



1 MR. KOENIG: That's right. In the lifer area, it's  
2 not automatic.

3 SENATOR PETRIS: What about other areas? You don't  
4 handle other areas?

5 MR. KOENIG: No.

6 SENATOR PETRIS: Because the talk outside is, well,  
7 if you kill somebody and you're sentenced to prison for life,  
8 you get out in seven years. That's maximum, automatic.

9 Is that true?

10 MR. KOENIG: No, definitely not. And I --

11 SENATOR PETRIS: Can you spread the word on that?

12 MR. KOENIG: We try to.

13 SENATOR PETRIS: People are telling me that all the  
14 time.

15 MR. KOENIG: No, and this is not true.

16 Since 1978, the matrix -- we go by a matrix which is  
17 established. The matrix for first degree murder is in the 20-25  
18 year, 25 to life. Murder two is in the 17, 18, 19 category, or  
19 20.

20 We hear the prisoner. We give them their initial  
21 parole consideration hearing at two-thirds of their time minus  
22 13 months. So, the minimum eligible parole date would be -- for  
23 murder two would be 10 years, or 9 years, and then we consider  
24 them for parole consideration hearing. That's their initial.  
25 So, they're going to serve at least 9 years before they're even  
26 considered for parole.

27 SENATOR PETRIS: What's the minimum for murder one?

28 MR. KOENIG: It's 25 to life, so you take two-thirds



1 of that, 15 years, is when they would receive their initial  
2 parole consideration hearing. Actually, about 16 years, but 15  
3 years because we see them for their initial hearing 13 months  
4 prior to the MEPD, minimum eligible parole date.

5 SENATOR PETRIS: Thank you.

6 MR. KOENIG: You're welcome.

7 CHAIRMAN LOCKYER: Senator Ayala.

8 SENATOR AYALA: Another question for Mr. Koenig.

9 In your mind, what factors are most important in  
10 determining when an inmate convicted of one of those vicious  
11 crimes -- murder, rape -- is suitable for parole? What factors  
12 enter into your mind as the most important to determine?

13 MR. KOENIG: It's really hard to say, Mr. Ayala,  
14 Senator. There are a series of factors that we go into, and  
15 it's a culmination [sic] of all these factors that really look  
16 at.

17 We look very strongly at the prior criminal record.  
18 If he's -- particularly if he's involved himself in violent  
19 offenses prior to the instant offense, and has had society's  
20 attempt to correct his criminality prior, in other words, he's  
21 been on probation, he's gone to Juvenile Hall, he's gone to YA,  
22 and then maybe a prior prison terms with violent offenses, then  
23 certainly he has a real strong strike against him of getting a  
24 parole date.

25 Then, of course, we consider the crime itself, the  
26 viciousness of that crime. Did he stab the guy 27 times and so  
27 on. And then his programming. Has he been behavior free since  
28 he came into the institution? Has he caused a lot of trouble?





1 Has he remained in the gang area? And has he upgraded himself  
2 educationally, vocationally? So, it would have to be a  
3 combination of factors.

4 But prior criminal record has a very strong influence  
5 on whether we give a date or not.

6 SENATOR AYALA: It's not clear in my mind, what fell  
7 through the crack in terms of this individual that murdered that  
8 little girl in Napa County someplace? What went wrong? His  
9 prior record indicated he was a vicious criminal, yet he kept  
10 getting released.

11 Can you, in a short paragraph, tell me what went  
12 wrong? How can we correct that?

13 MR. KOENIG: Sure.

14 You have there a prisoner whose sentence was --  
15 became a determinate sentencing prisoner. And therefore, there  
16 was no control. Nobody looked at him prior to him being  
17 released from the prison system. That's what you have with the  
18 determinate sentencing.

19 No one looks at a determinate sentencing prisoner and  
20 says, "You're ready to get out." We release people because they  
21 serve a certain amount of time. Their time is up and they're  
22 going to get out whether they're the most vicious -- still the  
23 most vicious criminal in the world, and there are many facets  
24 and indications within the system that the people who work with  
25 these prisoners all the time know that this person is not ready  
26 to get out, should not be released. And yet, they are released  
27 automatically.

28 SENATOR AYALA: But the law did serve its purpose.



1 The law indicated that this individual had served his time for  
2 different crimes, and you couldn't help but release the man.

3 MR. KOENIG: That individual, with his background and  
4 the crime, would never have been released today if he would have  
5 came [sic] under -- before the Board of Prison Terms.

6 SENATOR AYALA: Thank you.

7 CHAIRMAN LOCKYER: Additional questions?

8 Are there members of the public that wish to make any  
9 comments?

10 Okay, sir, it looks like you're going to be okay.

11 I just would briefly mention, with respect to the  
12 expansion of indeterminacy, as one who supported it for a number  
13 of years, and had three "Three Strikes, You're Out" bills vetoed  
14 by the previous Governor -- two by the previous, and opposed by  
15 the current Governor, I'm disappointed that we're not about to  
16 embark on 25 years to live for stealing a bottle of cologne.  
17 But somehow, that will be your job, I guess, to try to sort out  
18 when the petty thieves are ripe for release.

19 What's the pleasure of the Committee?

20 SENATOR BEVERLY: Move we recommend.

21 CHAIRMAN LOCKYER: We have a motion by Senator  
22 Beverly.

23 Call the roll, please.

24 SECRETARY WEBB: Senator Ayala.

25 SENATOR AYALA: Aye.

26 SECRETARY WEBB: Ayala Aye. Senator Beverly.

27 SENATOR BEVERLY: Aye.

28 SECRETARY WEBB: Beverly Aye. Senator Petris.



1 SENATOR PETRIS: Aye.

2 SECRETARY WEBB: Petris Aye. Senator Craven.

3 SENATOR CRAVEN: Aye.

4 SECRETARY WEBB: Senator Craven Aye. Senator  
5 Lockyer.

6 CHAIRMAN LOCKYER: Aye.

7 SECRETARY WEBB: Five to zero.

8 MR. KOENIG: Thank you, Senators.

9 CHAIRMAN LOCKYER: Ms. McGillivray, good afternoon.

10 MS. MCGILLIVRAY: I would first like to emphasize  
11 that this is my first time, so I think I get two more.

12 CHAIRMAN LOCKYER: Okay, well, let's give it a try.

13 What would you like to tell us about yourself and  
14 your qualifications for this position?

15 MS. MCGILLIVRAY: Well, obviously, you have my  
16 biography, but I do have a short description of my  
17 qualifications, if you'd like me to go through that.

18 I have enjoyed a 20-year -- 28-year, believe it or  
19 not, career in public service; 25 of those years at the state  
20 level, and 18 of those years in the administrative or managerial  
21 positions where I've had the opportunity to participate in  
22 policy making on a number of public programs.

23 I began my career in line positions with the  
24 California Youth Authority, supervising delinquent wards in an  
25 institutional setting. I moved from there to the Sacramento  
26 County Welfare Department, where I was involved in casework  
27 services to foster care children and foster placement.

28 From there, I moved to the State Department of Social





1 Services, where I spent 15½ years and had the opportunity to  
2 move up in more progressively responsible positions and  
3 participate in large rescale-restructuring of several public  
4 assistance programs, most notably developing the new  
5 federal-state partnership for the SSI-SSP program for adult  
6 welfare recipients, and for charting new directions in  
7 employment programs for AFDC recipients, which eventually  
8 developed into the GAIN program, and also for conceptualizing  
9 rate setting methodologies for AFDC foster care group homes.

10           Approximately 8½ years ago, I moved from the  
11 Department of Social Services to the Department of Corrections  
12 to what was then the brand-new prison construction program. And  
13 for seven years, I worked first in a civil service capacity, and  
14 later as a gubernatorial appointee, in developing and  
15 evaluating and acquiring sites for the new prison construction  
16 program. That was a very exciting time.

17           Also, my responsibilities in that position included  
18 opening the doors to minority and women-owned businesses to the  
19 many prison construction contracts that we had at that time and  
20 continue to have.

21           When I left that position, I'm proud to say that we  
22 had essentially completed the process of siting 20 new prisons,  
23 and our minority and women's business enterprise program for  
24 prison construction was not only meeting goals, but we had  
25 become a model program for the state.

26           CHAIRMAN LOCKYER: That was 20 new prisons in what  
27 time?

28           MS. MCGILLIVRAY: Twenty new prisons over a period of



1 time. That's sites. They're not all completed as yet, but that  
2 all started, really -- that's been done since about '85; '84-85.

3 CHAIRMAN LOCKYER: It was probably the largest public  
4 works project since the pyramids.

5 MS. MCGILLIVRAY: Yes, I believe so.

6 Just by way of background, in case some of you do not  
7 recall, the position which I am seeking confirmation for today  
8 is a new position created by legislation enacted in late 1992.  
9 That legislation divided the parole authority responsibilities  
10 between the Board of Prison Terms and the Department of  
11 Corrections. The Board kept the life prisoners and  
12 indeterminately sentenced felons, as well as mentally disordered  
13 offenders, and then the determinately sentenced felons came to  
14 the Department of Corrections.

15 Because our function is an administrative hearing  
16 process, it's a quasi-judicial process, it was essential that  
17 our function be organizationally separate from the Parole and  
18 Community Services Division and their supervisory function. And  
19 so, the -- recognizing that, the law provided that the new  
20 organization within the Department of Corrections be headed by a  
21 Deputy Director, appointed by the Governor, and, of course,  
22 confirmed by the Senate.

23 CHAIRMAN LOCKYER: The job is disposition of the  
24 determinate sentencing release program.

25 MS. MCGILLIVRAY: The job is, we are the parole  
26 authority for determinately sentenced inmates. Our primary --

27 CHAIRMAN LOCKYER: You're about to be put out of  
28 business.





1 MS. MCGILLIVRAY: No, no, no, not for a while.

2 CHAIRMAN LOCKYER: I don't mean that crime goes away.

3 I mean that they're about to all shift to the indeterminate  
4 side.

5 MS. MCGILLIVRAY: Well, it probably -- if that -- as  
6 that occurs, as I'm sure it's going to, it will take some time  
7 for people to be sentenced under those new laws, to go away from  
8 determinate sentencing and then become indeterminate.

9 So, I think we will be in business for sometime, and  
10 to the extent that the indeterminate sentences are more for the  
11 violent offenders or sexual predators, then we would still,  
12 presumably, have some determinate sentencing.

13 CHAIRMAN LOCKYER: Well, not under the initiative;  
14 petty theft, everything. There're some violent predicates for  
15 serious crime predicates, like drug possession.

16 MS. MCGILLIVRAY: I haven't read the whole  
17 initiative, but I understood that it was -- there was still a  
18 split of determinate and indeterminate.

19 CHAIRMAN LOCKYER: There's a few.

20 Questions from Members? Senator Ayala.

21 SENATOR AYALA: We have three Members on this  
22 Committee that have experience boot camp. That was when I was a  
23 kid.

24 CHAIRMAN LOCKYER: Four, I worked here.

25 SENATOR AYALA: Now, the inference is that boot camps  
26 are for, you know, undesirables and youth.

27 How is that program really working? Is it really  
28 making a difference?





1 MS. MCGILLIVRAY: In my position, I haven't -- I  
2 haven't come in contact with the program, because we are dealing  
3 with parolees, and the people participating in the boot camp  
4 program are inmates.

5 They do come out on parole, and then do a period on  
6 parole. And the program is somewhat new, so I think -- I don't  
7 know if we have -- at least I have heard how it's working as  
8 yet.

9 SENATOR AYALA: You don't know how the selection is  
10 made for these people?

11 MS. MCGILLIVRAY: My understanding is that there's  
12 criteria in law for the selection of the inmates to participate.

13 SENATOR AYALA: Thank you.

14 CHAIRMAN LOCKYER: Other questions?

15 I guess it's an appropriate time for me to learn  
16 a little from all these years of experience that show up.

17 So maybe if you would, just kind of describe what  
18 you've learned about this prison population that you have to  
19 deal with, and what might be done better to not see them again.

20 MS. MCGILLIVRAY: Oh, I wish I had the answer to  
21 that. I wish I was wise enough to have an answer to that.

22 Obviously, substance abuse is a big problem in our  
23 felon population. It's a big problem in the parolees that we  
24 see coming back into the system. Typically there's substance  
25 abuse connected with their parole violations.

26 If we -- I believe we need to find more answers in  
27 the way of substance abuse treatment. We're, of course,  
28 constrained by the limits of knowledge about how to treat



1 people, and the programs available, and of course, the funds  
2 available to do that. But I think finding the magic answers to  
3 substance abuse will certainly go a long way to helping us with  
4 our correctional system.

5 CHAIRMAN LOCKYER: Is there an adequate drug  
6 rehabilitation program currently within the prison system?

7 MS. MCGILLIVRAY: There -- my sense of it is that the  
8 Department's doing more and better at that. We have an Office  
9 of Substance Abuse that is coordinating a number of programs.  
10 There are community-based programs that the Department is  
11 working with, and I think there's progress. I've heard good  
12 things about some of the programs, that they are effective.

13 CHAIRMAN LOCKYER: Can you tell us which ones work  
14 and which ones don't?

15 MS. MCGILLIVRAY: I don't think I'd be the one most  
16 qualified to tell you that. I think other people in the  
17 Department can tell you how they're doing.

18 CHAIRMAN LOCKYER: If you find that expert, will you  
19 have them send us their monograph, or whatever it is that  
20 students might want to look at?

21 MS. MCGILLIVRAY: Okay.

22 CHAIRMAN LOCKYER: Do you have a role in determining  
23 whether parole violators are returned, or is that part of your  
24 responsibility?

25 MS. MCGILLIVRAY: Our role -- our role is to provide  
26 the administrative hearing. In parole violations, the Parole  
27 and Community Services Division acts very much like a prosecutor  
28 in determining whether or not they should charge someone with



1 violation of parole, and then evaluating whether or not they  
2 have the evidence to go forward. If they -- and there are some  
3 cases of offenses where it is mandatory that they refer the  
4 parolee to us, primarily the violent offenses.

5 So, they make the decision to refer, and then we  
6 conduct a neutral and detached hearing.

7 CHAIRMAN LOCKYER: You're the judge.

8 MS. MCGILLIVRAY: We're the judge, yes. We behave as  
9 the judge and determine whether or not, in fact, the testimony  
10 and the evidence shows that there was -- there is good cause for  
11 revoking parole. And if so, how long do they go back to prison  
12 for, up to a maximum of 12 months under the law.

13 CHAIRMAN LOCKYER: Have you been involved in  
14 comparisons with other states to try to understand why  
15 California seems to have a higher rate of return?

16 MS. MCGILLIVRAY: I have not had an opportunity to be  
17 involved in that. I know -- no, I haven't had an opportunity to  
18 know that.

19 CHAIRMAN LOCKYER: Questions from Members? Senator  
20 Petris.

21 SENATOR PETRIS: Couple of areas, one is on the  
22 prison population, extending that. The polls show that this  
23 "Three Strikes and You're Out" that's being circulated for the  
24 ballot is running about 80-85 percent with people in favor, so  
25 it looks like that's going to pass.

26 Is the Department doing a study to anticipate what  
27 kind of impact that'll have on the population?

28 People expect a lot more people to go into prison and





1 to stay there longer once they get there, in terms of space, and  
2 cost, and so forth.

3 MS. MCGILLIVRAY: Right.

4 My understanding is that that work is under way on  
5 the several bills that are in progress. I believe our target is  
6 for having that available next month.

7 SENATOR PETRIS: You're going to issue a report or  
8 something so that we'll know?

9 MS. MCGILLIVRAY: Since this is not my area, I don't  
10 know if it's going to come out in a report. Can I defer to the  
11 Director?

12 SENATOR PETRIS: Yes.

13 MR. GOMEZ: I'll just say briefly, our hope is to  
14 have an actual estimate of the initiative by the third or fourth  
15 week of February.

16 Everything's -- there's three or four bills at least  
17 that revolve off of that. We think the initiative would be the  
18 highest number, and then depending upon the bills, we'll have  
19 created the data base then to be able to match other bills. The  
20 Rainey-Burton bill, as an example, has a different population of  
21 who or what a "strike" is, what a second strike is, third strike  
22 is.

23 So, the initiative is probably the big number at this  
24 point. The others are less.

25 We hope -- I hope to see something in another eight  
26 to ten days, and I hope to get something to the Legislature by  
27 the 21st.

28 CHAIRMAN LOCKYER: There's an urgent need for good



1 numbers.

2 MR. GOMEZ: Yes, we are working diligently, but we're  
3 also working to try and come out with something that everyone is  
4 going to try to tear apart, depending on which side of the issue  
5 they're on.

6 CHAIRMAN LOCKYER: You're right.

7 MR. GOMEZ: And my objective is to have the best  
8 analytical estimate that we can with nobody saying it's left,  
9 it's right, it's in-between; it's analytical.

10 We want to provide that analysis, and then, however  
11 the politicians want to go in terms of their direction, that's  
12 fine. We want to try and get the best estimate we can. The  
13 numbers are big.

14 SENATOR PETRIS: I understand the population now is  
15 about 179-plus percent of capacity.

16 Is that figure about right? Is that the figure  
17 you're given?

18 MR. GOMEZ: I use 184.

19 SENATOR PETRIS: One hundred eight-four percent.

20 CHAIRMAN LOCKYER: If I may, at what point do you get  
21 nervous that there might be a federal court order relative to  
22 overcrowding?

23 MS. MCGILLIVRAY: I'll let him --

24 CHAIRMAN LOCKYER: I'm sorry. Maybe I should ask the  
25 question of Ms. McGillivray.

26 MS. MCGILLIVRAY: I'll let him get nervous.

27 MR. GOMEZ: I live in a state of nervousness, Senator  
28 Lockyer.



1 I think that we are doing a hell of a job managing  
2 prisons at 184 percent. We're meeting the constitutional  
3 minimum throughout the system. We're trying to keep people out  
4 of their cells, occupied. We don't have enough program; we  
5 don't have enough work slots.

6 We have some issues, obviously, that we would like to  
7 be doing a better job on: much more substance abuse  
8 treatment.

9 But I'm not nervous today that we're looking at some  
10 major federal court suit in terms of closing down the prison  
11 system. But we're continuing to look at an 8,000-10,000 per  
12 year increase. And as long as the Legislature, and the  
13 Governor, and the public passes bills that send more people, we  
14 need the companion measures to build facilities that will house  
15 them.

16 I think your work last year on AB 10, in which you  
17 interceded and tried to bring the drug treatment program as  
18 part of that bill, was a key change for the State of California.  
19 We were able, for the first time, to get legislation to build a  
20 therapeutic community within a prison, and that's part of what  
21 we're doing today.

22 But as long as we continue to get the increase in  
23 population of from 8,000-10,000 a year, we've got to have the  
24 facilities to house them.

25 CHAIRMAN LOCKYER: Right.

26 MR. GOMEZ: To the extent that we don't build those  
27 facilities, the likelihood of the courts coming in just raise  
28 exponentially.





1 CHAIRMAN LOCKYER: Well, Mr. Gomez, this is probably  
2 not the right forum to debate this particular point, but I at  
3 least want to insert a disagreement.

4 If we're going to over-sentence seriously, it seems  
5 we shouldn't over-build. Perhaps the court will have to do what  
6 the Legislature is unable to muster the will to do and enact  
7 sensible sentencing policies.

8 But we'll talk about that at budget time.

9 Senator Petris, I'm sorry.

10 SENATOR PETRIS: On another subject, the State  
11 Personnel Board has made a finding about disproportionate  
12 treatment of some prisoners, notably African-American and  
13 Hispanic, in disciplinary actions taken against them, and so  
14 forth. And we've had complaints from outside groups that  
15 monitor this.

16 Are you aware of that finding of the Personnel Board?

17 MS. MCGILLIVRAY: I'm aware of the finding of the  
18 Personnel Board. I don't think that our function was a part of  
19 that.

20 Are you saying in terms of employee discipline, or in  
21 the --

22 SENATOR PETRIS: Yes, it's a Personnel Board finding  
23 regarding employees and their treatment. So, it would be not  
24 the inmates, but the employees.

25 MS. MCGILLIVRAY: Yeah, I'm aware of the finding.

26 SENATOR PETRIS: That's not your shop, though?

27 MS. MCGILLIVRAY: However -- no, I'm afraid it's not  
28 my shop.



1 And also, my division was not in existence and was  
2 not a part of that study.

3 SENATOR PETRIS: We'll have to take that up with  
4 somebody else.

5 MS. MCGILLIVRAY: Any questions on parole revocation?

6 SENATOR PETRIS: We're all concerned about that,  
7 because at almost every hearing regarding confirmation of people  
8 at high levels in the system, we get complaints. Not everyone,  
9 but frequently from either inmates or employees about  
10 unfairness, which, in an institution that size, I think is  
11 pretty much inevitable. Sooner or later, that's going to  
12 happen.

13 MS. MCGILLIVRAY: Obviously.

14 SENATOR PETRIS: We need to be alert and try to  
15 overcome that and correct it whenever it happens.

16 MS. MCGILLIVRAY: I'm happy to say that in the little  
17 over a year existence of our division, we haven't had a problem  
18 with disciplinary action.

19 SENATOR PETRIS: That's fine.

20 Thank you.

21 CHAIRMAN LOCKYER: How many people are under you?

22 MS. MCGILLIVRAY: We have -- the division is a total  
23 of 55 positions.

24 CHAIRMAN LOCKYER: What are the gender and the ethic  
25 characteristics of them?

26 MS. MCGILLIVRAY: We are doing very well in terms of  
27 female representation. We're actually above parity on female  
28 representation.



1 We are doing very well on --

2 CHAIRMAN LOCKYER: Parity means 50 percent?

3 MS. MCGILLIVRAY: It's 44 percent, I believe, is the  
4 female, and we're about 7 percent over parity.

5 We are doing very well in representation of African-  
6 Americans. We're well over parity there.

7 We are actually over parity on Hispanic females.  
8 We're under parity on Hispanic males.

9 We need to target Asians, and we do not have Asian  
10 representation.

11 CHAIRMAN LOCKYER: What are the numbers, the target  
12 or goals, with respect to some of these?

13 MS. MCGILLIVRAY: Overall goals?

14 CHAIRMAN LOCKYER: Yes.

15 MS. MCGILLIVRAY: For labor force parity?

16 CHAIRMAN LOCKYER: Yes.

17 MS. MCGILLIVRAY: For white, it's 60.4; for black  
18 it's 6.2; for Hispanic it's 23.6; and for Asian, 6.3; American  
19 Indian, .6; Filipino, 2.3; Pacific Islander, .4; and Other, and  
20 I'm not sure what that means, .2; and disabled, 6.3. And for  
21 female, it's 44.

22 CHAIRMAN LOCKYER: And you're low in Asian, you  
23 mentioned --

24 MS. MCGILLIVRAY: We're low in Asian and Hispanic  
25 male and disabled.

26 CHAIRMAN LOCKYER: Do you feel there are adequate  
27 personnel mechanisms to address those in the near future?

28 MS. MCGILLIVRAY: Yes, I think we can. We've had





1 very little turnover in terms of our administrative hearing  
2 officers. In the administrative area, we have had more turnover  
3 and we've been able to address some there, but I do expect to  
4 address it.

5 CHAIRMAN LOCKYER: Thank you.

6 Is there anyone present who'd wish to comment on the  
7 nominee?

8 Questions from Members? What's your pleasure.

9 SENATOR CRAVEN: Move.

10 CHAIRMAN LOCKYER: Senator Craven moves the  
11 recommendation.

12 Please call the roll.

13 SECRETARY WEBB: Senator Ayala.

14 SENATOR AYALA: Aye.

15 SECRETARY WEBB: Ayala Aye. Senator Beverly.

16 SENATOR BEVERLY: Aye.

17 SECRETARY WEBB: Beverly Aye. Senator Petris.

18 SENATOR PETRIS: Aye.

19 SECRETARY WEBB: Petris Aye. Senator Craven.

20 SENATOR CRAVEN: Aye.

21 SECRETARY WEBB: Senator Craven Aye. Senator  
22 Lockyer.

23 CHAIRMAN LOCKYER: Aye.

24 SECRETARY WEBB: Five to zero.

25 MS. MCGILLIVRAY: Thank you very much.

26 CHAIRMAN LOCKYER: That's one strike.

27 Okay, let's see, Jamie Sepulveda-Bailey. Good  
28 afternoon.



1 MS. SEPULVEDA-BAILEY: Good afternoon, Senator, and  
2 congratulations on your new assignment.

3 CHAIRMAN LOCKYER: Thank you.

4 MS. SEPULVEDA-BAILEY: Do you want to start, or do  
5 you want me to start?

6 CHAIRMAN LOCKYER: Why don't you tell us about  
7 yourself and why you should be confirmed?

8 MS. SEPULVEDA-BAILEY: All right.

9 Well, this is my second time around. You've heard  
10 three times, and one time. Well, I'm the two-timer.

11 But I'm used to the question, why am I qualified to  
12 do the job, so I took the liberty of jotting down a couple of  
13 notes, of you'll allow me.

14 CHAIRMAN LOCKYER: Certainly.

15 MS. SEPULVEDA-BAILEY: When Governor Deukmejian  
16 appointed me to this post almost five years ago, before I took  
17 the position I did an awful lot of research and tried very hard  
18 to understand the job description and all that it stood for.

19 I have kept in mind, over the past five years, the  
20 commitments that I made to the Governor, to the Senate, to the  
21 public, to the victims, and more specifically, to the wards that  
22 I deal with on a daily basis.

23 And today, Mr. Chairman and Members of the Committee,  
24 I can say that I have kept those commitments, and in many  
25 instances, I have worked very hard to go beyond the job  
26 description. You see, I believe that to keep a balance in all  
27 that I do in my job, I stay focused, or I need to stay focused  
28 on the three areas that are crucial to my line of work. Those



1 three areas are the areas of prevention, punishment, and  
2 preparation, as I call it.

3 In the area of prevention, I work very closely with  
4 the Youth Authority, with Parole Services, community-based  
5 programs, and specifically the minority communities that I  
6 represent, as they make up, as you probably are very much aware,  
7 the highest population base within the Youth Authority.

8 In the area of punishment, I push strongly for  
9 programs that make the offenders accountable and remorseful.  
10 Such programs as Victims Impact classes, Gang Awareness, Victim  
11 Awareness, a crack baby program, and many, many community  
12 service programs.

13 In the area that I call preparation, I believe that  
14 this is the component that needs to be used where it takes all  
15 of the rehabilitative tools that these young offenders are  
16 provided, and that helps them prepare for a productive, crime-  
17 free life style.

18 Now, unfortunately, one of the questions I'm sure  
19 Senator Petris doesn't remember because I was absolutely scared  
20 to death when I was here five years ago, but Senator Petris  
21 asked me the question at the time: Do you understand that there  
22 is a high rate of recidivism within the Youth Authority; and if  
23 you do understand that, can you explain why?

24 I don't think you remember that, but I'll never  
25 forget it, because at the time, I chose to be very fair and  
26 honest with my response to say: No, sir, I'm not fully aware;  
27 I'm sure I will know soon, and if you ever ask me again, I'll  
28 have the answer.





1           So, if you want to ask me today, I can give you the  
2 answer.

3                           [Laughter.]

4           MS. SEPULVEDA-BAILEY: But unfortunately, the final  
5 area that I call preparation, I believe, is the area that  
6 unfortunately has the least amount of attention due to the  
7 limited resources available, and I believe, therefore, is one of  
8 the main causes for the high rate of recidivism that we  
9 experience with parolees from the Youth Authority.

10           So, given that little background of experience that I  
11 work in and have worked in for the past five years, I'm prepared  
12 to entertain any questions.

13           CHAIRMAN LOCKYER: Well, I think Senator Petris's  
14 question has come back.

15           MS. SEPULVEDA-BAILEY: Come back to haunt me?

16           SENATOR PETRIS: Can you elaborate on it? What  
17 resources do you mean? Parole officers and --

18           MS. SEPULVEDA-BAILEY: I guess what I want to  
19 definitely highlight for anybody that's willing to listen,  
20 because there's an awful lot of discussion about boot camps, and  
21 about also some things that may be seen, perhaps, as panaceas.  
22 I don't see them that way.

23           I'll tell you very succinctly that what I see on a  
24 daily basis, because we do 22 cases a day, okay, 22 cases a day,  
25 and I can honestly say that in my estimation, at least 80  
26 percent of all the young people that come before me on a parole  
27 referral hearing, I really believe that they think that they are  
28 truly ready for parole, and they really believe on that day that  
they're going to make it.



1           Unfortunately, I know more often than they know that  
2 they're not going to make it. And I know the reason they're not  
3 going to make it. The reason they don't make it is because we  
4 take them, and we house them, treat them, train them, and  
5 rehabilitate them in the Youth Authority.

6           Somebody asked me, do those programs really work?  
7 And I'm here to tell you, the programs really do work. It's not  
8 the programs that are faulty.

9           It's the follow-up work with these young people that  
10 is very faulty. The fact that we take these young people, we  
11 scrub them clean. We educate them. We counsel them. We  
12 program them to be successful human beings, and then we have to  
13 return them to their county of commitment; in essence, return  
14 them to the same garbage can where we found them. Return them  
15 to parents who are delinquent in all areas. Return them to  
16 nonexistent environments.

17           You know and I know that these young people will  
18 never be strong enough, for the most part -- there are a few  
19 that do succeed -- but for the most part, to fight off the  
20 gangs, the barrios, the drugs, the garbage can that we found  
21 them in, if that's where they are returned immediately.

22           I think that, perhaps, in looking at -- and I know  
23 that you have a lot of influence as to what happens with these  
24 proposals on boot camp programs -- my recommendation is that it  
25 go beyond what is being proposed for what's within the program.  
26 We go beyond that to what happens after the fact; what happens  
27 to these young people, or these adults, that go through these  
28 programs after they are released to parole. And I don't think



1 there are enough resources being put out there to clean up the  
2 environment that we have to return them to.

3 CHAIRMAN LOCKYER: What you do?

4 MS. SEPULVEDA-BAILEY: I think that money needs to be  
5 moved around. I think there's an awful lot of studies that are  
6 being done, and I came in under the Commonweal Report. Maybe  
7 you're aware of, you know, back in those days the Commonweal  
8 Report very much was saying -- and I see some highlights of that  
9 being brought out now -- about perhaps we should take some of  
10 the resources from programs like the Youth Authority and turn  
11 them into community-based programs.

12 And I don't know that it's the programs that aren't  
13 working. I think that there aren't enough resources available  
14 for these young people to go out. And I personally force them  
15 to get into them. They're age-appropriate for education. I  
16 force them to stay in an educational program while they're in  
17 the Youth Authority. I say, "You're age appropriate. You're  
18 staying in school."

19 If they're beyond or questionable age-appropriate for  
20 school, then I make them go through vocational training programs  
21 or employability skills training programs.

22 There aren't resources enough for them to follow-up.  
23 We refer them out to EDD, the Department of Employment  
24 Development, et cetera. But these young people --

25 CHAIRMAN LOCKYER: When they're released, or when --

26 MS. SEPULVEDA-BAILEY: When they're released on  
27 parole, we refer them to EDD.

28 CHAIRMAN LOCKYER: Why don't you bring EDD in to work





1 with them before they're released?

2 MS. SEPULVEDA-BAILEY: They do. Unfortunately, the  
3 job resources are not tied out there. We need to work closer.

4 If I could wish, and wishes came true, I would wish  
5 that we had a closer tie, a closer bond with the private sector.  
6 I came from private sector once upon a time. I almost forget  
7 that sometimes, but I did come from private sector, and we need  
8 to lock them in a lot more. And they're willing to. I do an  
9 awful lot of public speaking, and they're willing to, if they  
10 know how, to interact.

11 One of the incredible resources that I think we have  
12 available right here in state government is the California  
13 Conservation Corps, for example. I think that could be turned  
14 into an absolutely wonderful resource to transfer some of these  
15 parolees and say, "As part of your parole conditions, you will  
16 do X amount of time in training for vocational skills, et  
17 cetera."

18 You know, we're trying to get people off of welfare  
19 by job training them; let's try to keep some of these kids from  
20 coming back by supplying them with jobs or educational  
21 opportunities.

22 CHAIRMAN LOCKYER: Can't you do that under current  
23 law?

24 MS. SEPULVEDA-BAILEY: It's not about the law,  
25 Senator, unfortunately. It's about resources.

26 CHAIRMAN LOCKYER: It's not a slot to go to?

27 MS. SEPULVEDA-BAILEY: It's about when we parole  
28 them, we say, "Okay, I'm going to return you to X place, and



1 here are the conditions of your parole, and you will do it or  
2 you'll see me again, kid."

3 And then, once they walk out there, they tie in,  
4 within 24 hours, with their parole agent. And the parole agent  
5 says, "Okay, here's what you have to do. Go do it."

6 And the kid's out there saying, "You know, I don't  
7 even have a driver's license, and I have to go look for a job.  
8 And Bailey told me if I don't get a job within the next 60 days,  
9 man, I'm going to see her again."

10 They just aren't there. And if they are there, they  
11 aren't very clearly defined.

12 Having said all that, as you can see, I'm not excited  
13 about what I do for a living.

14 CHAIRMAN LOCKYER: Senator Craven.

15 SENATOR CRAVEN: Thank you.

16 I was quite interested in what you had to say.

17 I was also saddened by what you had to say.

18 MS. SEPULVEDA-BAILEY: Yes.

19 SENATOR CRAVEN: Ordinarily, I don't react that way.

20 But when you tell us that, of the people who may be  
21 put back on to the streets, or back into the neighborhood, only  
22 a small percentage of them are going to succeed and really turn  
23 their lives around and get back and be productive, and then you  
24 said things that I don't think surprised any of us. You said  
25 the families have a certain degree of ennui. They couldn't care  
26 less.

27 There is no -- presumably this is sort of a no-no  
28 when we talk about government -- but there's no religious impact



1 in their lives, presumably. I have always felt that that had a  
2 tendency to guide people away from, you know, bad things, and  
3 move them in the direction of good.

4 I don't know, you know, how far the sociological  
5 aspect of your job, your responsibility, or the public  
6 responsibility, goes. You know, those old words: Am I my  
7 brother's keeper? I think we have to think about that, and then  
8 we think, how long are we going to keep them? What are we going  
9 to do? What is the millennium? Where does it end?

10 I don't expect you to answer that. I don't want to  
11 take Senator Petris's role here, so when you come back the third  
12 time, I won't be here then.

13 But be that as it may, I hope you understand what I'm  
14 saying.

15 MS. SEPULVEDA-BAILEY: I certainly do.

16 SENATOR CRAVEN: I really don't expect you, you know,  
17 to have such omniscience that you know all of the answers.

18 Is there anything that you could tell me, or us, that  
19 would make us feel a little better about the problem that we  
20 face?

21 MS. SEPULVEDA-BAILEY: I'd love to have days to tell  
22 you, because I'm always doing homework. I'm always doing  
23 homework.

24 And I have come up with some incredible statistics  
25 that, if anybody were really paying attention to, we could move  
26 to the first "P", which is prevention.

27 Just to give you some -- if I may take a couple of  
28 minutes, just some mind-boggling statistics. You know, we used





1 to talk about the year 2000, which seemed, you know, in 1980,  
2 2000, that's a long way away. We're talking, what? That's six  
3 years away.

4 So, imagine that in six years, the at-risk youth  
5 population is going to have an increase of over 30 percent.  
6 This is just the increase. What are we doing to prepare for  
7 that?

8 Did you know that out of that statistic, 28 percent  
9 of all the at-risk kids will be of very limited English  
10 proficiency. What are we doing about that? What are we doing  
11 about that in the programs we provide within our settings in the  
12 Youth Authority and CDC? We don't have bilingual programs. We  
13 don't have bilingual educators. We are dealing with the illegal  
14 immigrants that are jails are getting full of.

15 We're supposed to forget CDC. We're supposed to  
16 treat and rehabilitate, and then my job is to monitor and  
17 evaluate parole readiness, and I'm talking to a kid who can't  
18 even speak English, and yet I'm being told, "Mrs. Bailey, we  
19 have no resources. That's the best we could do. You guess if  
20 he's parole ready."

21 Do you see what I'm saying? You know, I could go on  
22 with the statistics about what's going to happen with the 13th  
23 generation of population, and it's scary.

24 SENATOR CRAVEN: I appreciate what you said.

25 Do you have any contact with the ROP program.

26 MS. SEPULVEDA-BAILEY: With what, I'm sorry?

27 SENATOR CRAVEN: The Regional Occupation Program.

28 It's basically tied to school, and it's job opportunity in a



1 particular field where you sort of go to school, and then you go  
2 to work in that area.

3 MS. SEPULVEDA-BAILEY: I see.

4 SENATOR CRAVEN: Do you have any tie with those  
5 people?

6 MS. SEPULVEDA-BAILEY: Within the Youth Authority?

7 SENATOR CRAVEN: Well, the thought that I have is,  
8 when these people come back into the community, and they have  
9 basically nothing on which to lean, if they could be educated to  
10 do whatever it may be -- you know, they could press clothing, or  
11 work in a laundry, or knock out dents in fenders. They could do  
12 all kinds of things.

13 MS. SEPULVEDA-BAILEY: There's a couple of really  
14 successful programs, unfortunately not enough, all over the  
15 state. One of them is called PIC, which is the Private Industry  
16 Council, that works very closely with our parolees. Another one  
17 is called VIP, which is Volunteers In Parole.

18 SENATOR CRAVEN: Yes.

19 MS. SEPULVEDA-BAILEY: And that is kind of their  
20 function, is to play a mentor role, a sponsor role, if you will,  
21 to help some of these young people be redirected.

22 Unfortunately, it's not an organized structure that  
23 has the sanction of state government, or federal government, or  
24 whatever. So, it comes and goes with volunteers, as you know.

25 SENATOR CRAVEN: One other thing, Ms. Bailey, that I  
26 want to say to you before you leave.

27 MS. SEPULVEDA-BAILEY: Yes, sir.

28 SENATOR CRAVEN: Senator Ayala brought it up, and he



1 talked about Senator Beverly and myself, and Senator Ayala  
2 himself, about the boot camps.

3 MS. SEPULVEDA-BAILEY: Right.

4 SENATOR CRAVEN: Well, of course, you know what boot  
5 camp is. We don't have to tell you that.

6 It has changed considerably since we were at that  
7 stage in our lives. We were just kids.

8 But the one thing, it was a very brutish thing, to be  
9 very frank about it and not being benign. I mean, they did  
10 things that were outlandish, absolutely outlandish, and it made  
11 you so mad you could cry, and sometimes you did. And you were  
12 19, 20 years old, or maybe younger. But that was a part of the  
13 system. And you hated every day of it, from the time you got up  
14 at 2:00 o'clock in the morning, to the time you went to bed at  
15 9:00 o'clock at night.

16 And yet, somewhere inside you during all of that,  
17 there was building up, commensurate with the antagonism, a  
18 pride. And one eventually overcame the other. Pride won  
19 always.

20 And if we could build pride in these people, that's a  
21 good system.

22 MS. SEPULVEDA-BAILEY: I agree with that absolutely.

23 And as I said, the boot camp program, particularly --  
24 I'm not familiar with the CDC level, to be honest -- but with  
25 our level of boot camp programs, they can be extremely  
26 successful. I just don't think they go far enough.

27 And the only thing that is missing, as I said, is the  
28 follow-up program; what happens to the young people once they





1 get paroled. They become a parole, just like the other  
2 parolees. It's just that simple. There should be something a  
3 little different.

4 CHAIRMAN LOCKYER: Ms. Bailey, we're about to spend  
5 all the money on incarceration, so I suspect the follow-up --

6 MS. SEPULVEDA-BAILEY: I think a lot of money could  
7 be moved around, Senator.

8 CHAIRMAN LOCKYER: Not when an initiative gets  
9 adopted, it can't.

10 MS. SEPULVEDA-BAILEY: If you ever want to pick my  
11 brain some more, I have more ideas.

12 CHAIRMAN LOCKYER: I'd like to hear from you. I  
13 think it's very interesting to learn whatever you learned in  
14 this job that you can recommend to policy makers' improvements.

15 What else? Just move the money around?

16 MS. SEPULVEDA-BAILEY: No, there's specific details.  
17 This isn't the forum, as somebody mentioned earlier, but there's  
18 an awful lot, I believe, that -- I don't think we're a  
19 give-up-itis society. I think that's what makes America what  
20 it is. We don't give it up.

21 And it's so easy in an environment, a political  
22 environment, sometimes, to say, you know, this won't work  
23 because, and if you have this, then we can't have that. You  
24 want this; we don't have the money to pay for it so the answer  
25 is no.

26 I don't believe that that should be the case. I  
27 believe the "Three Strikes You're Out" has an awful lot of  
28 merit, and yet I believe that it has to be structurally sound.



1 I think, you know, we've talked an awful lot about  
2 what's going to happen when the "Three Strikes You're Out"  
3 passes, and what is going to be put into effect. But along with  
4 that should be laid out -- the information should be laid out  
5 that says, "Now, here's what we're going to do to prepare for  
6 it. Here's how we're going to pay for it. Here's what's going  
7 to happen to the lifers. Here's the AIDS."

8 I mean, teach the public. Educate them. Give them a  
9 lot more so they make sound decisions, not just reactive or  
10 knee-jerk, I think.

11 CHAIRMAN LOCKYER: Frankly, I think the public would  
12 make wiser decisions than us if we could give them a choice.

13 MS. SEPULVEDA-BAILEY: I believe so.

14 CHAIRMAN LOCKYER: We may not have that opportunity  
15 to do it.

16 Can you describe how you can tell? Is it intuitive?  
17 What are the indices for kids that you think or going to make it  
18 or not? Can you tell when you --

19 MS. SEPULVEDA-BAILEY: Me personally or my job?

20 CHAIRMAN LOCKYER: Yes, your job, when you see the  
21 wards, and you have to decide: try this one; that one won't  
22 work. Can you tell us how you do it?

23 MS. SEPULVEDA-BAILEY: There's obviously a format of  
24 information that's provided to us. It's a checks and balances.

25 We don't have good time credits, by the way, in the  
26 Youth Authority. We have program credits. It's like a report  
27 card. They earn their programs or they don't go.

28 In the adult system, they get good time. You're good





1 for a day, you get a good day off. With us, you complete a  
2 program, you get a program credit, and that's how they're  
3 measured.

4 So, I believe that when the time comes, I go through  
5 all the evaluation of formalities, but the bottom line is, I'm  
6 in their face. I'm one of them. They can't deal with me on the  
7 basis of, "How do you know, lady?" If they want to talk barrio  
8 talk, I can talk barrio talk. You want to talk to me, I can  
9 talk to you. And I can start it, you know, you want to tell  
10 poor stories? I can tell poor stories. I never had a dad; I  
11 never had a dad either.

12 So, I think you can bring it down to their level of  
13 measurement to see what the level of remorse is, what the level  
14 of commitment is to a future, their level of preparation. And I  
15 think that that's something that has to be measured quite  
16 succinctly, is their level of preparation. If I parole you  
17 today, I basically go into three areas: tell me who you were;  
18 tell me who you've been; and tell me who you plan to be if I  
19 parole you.

20 And that's kind of the measures that I use.

21 SENATOR PETRIS: Can I ask, what kind of tracking do  
22 you do beyond parole? The youth goes out, he's on parole, so  
23 he's still in the system. But beyond that, is there any  
24 follow-up at all to determine what happens to the people who are  
25 released so you can measure the success rate?

26 MS. SEPULVEDA-BAILEY: The Youth Authority has some  
27 very automatic reports that they monitor all these things. You  
28 know, the population management reports that measure population,





1 that measure parole, that measure returns, and so on.

2 I don't know that -- and unfortunately, I don't  
3 believe, and if there is, I've never seen one -- I don't believe  
4 that there's a report that says, out of 100 that were paroled,  
5 these 30 went on to become this, and so on and so on.

6 That would be a fascinating study. I love to hear a  
7 success story come up.

8 The final, final end to a parolee is when they come  
9 before the Board for a discharge, and obviously, three  
10 categories, like in the military: an honorable, a general one,  
11 and a dishonorable. And it's a good news story to see a kid  
12 that started out to be, you know, tattoos all over the forehead,  
13 and the killer kid who was the leader of the whatever, who  
14 suddenly, you know, many years later, is coming before the Board  
15 to appeal to the Board for an honorable discharge because this  
16 is what he's done with his life, following up.

17 And in going out in my travels across the state and  
18 speaking here or there, I've had parolees that have come up to  
19 me -- not that I've necessarily paroled them -- that have come  
20 up to me and said, "You wouldn't know me, but I used to be a  
21 criminal, and I used to be a ward, and here's what I've done  
22 with my life."

23 So, once in a while you get the good news stories,  
24 but more often than not, we get the bad news.

25 SENATOR PETRIS: Thanks.

26 CHAIRMAN LOCKYER: Other questions? Senator Ayala.

27 SENATOR AYALA: Senator Craven, you almost made me  
28 cry all over again when you talked about boot camp.



1 MS. SEPULVEDA-BAILEY: Flinch is the word.

2 SENATOR AYALA: I want to get philosophical for just  
3 a moment.

4 MS. SEPULVEDA-BAILEY: Yes, sir.

5 SENATOR AYALA: Politicians and bureaucrats have a  
6 propensity for addressing the symptoms. And we don't have  
7 whatever it takes to go down to the causes of this issue.

8 We've built more prisons, and we put more policemen  
9 on the street -- and I'm all for that. We've got to control  
10 what the problem is, but it's not resolving the issue.

11 Crime is something that everybody's demagoguing  
12 today, including Ruben Ayala, by the way, and I want to know  
13 that we're treating the symptoms when we've got the Youth  
14 Authority, and we have more policemen, and we've got to have  
15 that.

16 But when these people who are convicted of felonies,  
17 most of them are born nice, little babies. So, what happens  
18 between the time they're born and the time they're convicted of  
19 a felony? That's what we should be concerned with.

20 Sure, we've got all these good programs for youth,  
21 and the program that you mentioned earlier about putting these  
22 people into the youth corps. I was the author of that bill, and  
23 it was designed to put these kids that have been convicted of  
24 borderline cases, to keep them from going into your  
25 establishment.

26 MS. SEPULVEDA-BAILEY: Right.

27 SENATOR AYALA: So, I don't know that I would support  
28 putting these people in there. They come out of Youth



1 Authority. It's for kids that haven't gone all the way yet; try  
2 to save them.

3 But what are we doing about treating the causes?  
4 It's a socioeconomic problem. No one's doing anything about  
5 that.

6 The first parents -- the first people these kids see  
7 when they're born are their parents.

8 MS. SEPULVEDA-BAILEY: Absolutely.

9 SENATOR AYALA: The parents don't care. They don't  
10 understand. They don't give a darn. They grow up  
11 undisciplined. Then they meet their equals, and they form  
12 gangs, and on they go.

13 I think it all started during World War II. Prior to  
14 that, the mentality was that women did work out of the kitchen  
15 -- without shoes, by the way.

16 MS. SEPULVEDA-BAILEY: And pregnant. You forgot  
17 pregnant.

18 SENATOR AYALA: And that was the mentality of the  
19 day. If women worked, men weren't men, you know. They had to  
20 get help from the wife to support the family, the macho thing,  
21 you see.

22 And so, came World War II, and father was in the  
23 service. Mother had to work at a defense plant to make things  
24 go. She became Rose the Riveter. And for the first time, these  
25 kids are left alone at home. For the first time in the history  
26 of this country, they were left alone with no discipline, no  
27 guidance, because mom and dad were gone.

28 So now, the next generation. These kids didn't have





any guidance or discipline, what of their kids, and on the line?

So, I think we've got to go back to the basics and address the issue where it should be, with the parents. The parents must be held accountable --

MS. SEPULVEDA-BAILEY: Absolutely.

SENATOR AYALA: -- for their kids, right from the beginning.

And I don't mean going to watch Junior play football on Friday night, or going to a PTA meeting every three months. Every day they should be on top of these kids and teach them some discipline.

Everybody talked about the boot camp being so tough. Let me tell you, when I got through with my folks at home, boot camp was a piece of cake. I really came from a discipline background, and I'm a better man for it, I think, today.

And so, we've got to get down to where the problems exist. They don't exist with the Youth Authority or the prison system. We've got to have these. We've got to have more police in the street to feel safe, but that's not going to resolve the issue. The issue is deeper than that, and we don't seem to care to get involved to find out what's causing it. It may take generations before we get straight on it again, but we've got to start someplace, and we've got to go down to the core and deal with the parents who are made held accountable and responsible for the kids that they have. And that's where it starts. Without that --

MS. SEPULVEDA-BAILEY: I totally agree.

SENATOR AYALA: -- forget about all the other



1 programs.

2 MS. SEPULVEDA-BAILEY: I totally agree with you.

3 If I could just give you two food for thoughts in  
4 line with what you're saying.

5 In the less than five years that I've served in the  
6 Youth Authority -- not in the Youth Authority, pardon me; I  
7 didn't mean that -- the Youthful Offender Parole Board, I have  
8 seen something that blew me away. When I first came to the job,  
9 the largest population base within the Youth Authority was the  
10 black ward, followed closely by Hispanic, then by white, then by  
11 Asian.

12 By the end of my third year, the start of my fourth  
13 year, there was a dramatic population shift. It is now  
14 primarily Hispanic, followed by black; fastest growing, Asian.

15 I'm leaving that with you after you confirm me today.  
16 I'm leaving that with you, because I don't want to, you know,  
17 draw any major conclusions.

18 But as a Hispanic woman who had latch-key children,  
19 who raised my kids for many, many years, until I found, you  
20 know, the guy back there that decided to take me in, he's out  
21 there someplace, but until that happened, I was the working  
22 woman with two kids trying to be latch-key kids, and doing all  
23 that kind of stuff. And there was a lot of morals and values  
24 that had to be implemented.

25 So, I get outraged when I ask the question, I am a  
26 Hispanic mother with children, and I'm here to tell you, ladies  
27 and gentlemen, we Hispanic women do not give birth to more  
28 criminally oriented children. We do not, okay? And neither do



1 the blacks, or neither do the fastest growing Asians, whatever.  
2 That's the first food for thought that I leave you with.

3 The second one is, how can you create or instill  
4 family values when you have children having children? We have  
5 the highest teenage pregnancy rate in my community, and in the  
6 black community, they have the youngest population base having  
7 children. How can we possibly -- I don't know the answers. I  
8 know the frustrations. I don't know the answers, but it goes  
9 way beyond more prisons.

10 We need more prisons for the public. Yes, we do need  
11 to punish the criminal. I totally believe they need punishment.

12 Do I believe in rehabilitation of young people? Yes,  
13 I do. Does it go far enough? No, it does not. Is there a  
14 simple answer? No, there is not, but we've got to go back to  
15 basics. You're absolutely right.

16 CHAIRMAN LOCKYER: I'd only suggest that the problem  
17 of children having children isn't solved by starving them.

18 MS. SEPULVEDA-BAILEY: That's right.

19 CHAIRMAN LOCKYER: That seems to be the only  
20 recommendation we hear these days.

21 I hope your efforts will be more humane and  
22 successful.

23 Other questions from Members?

24 SENATOR CRAVEN: Move.

25 CHAIRMAN LOCKYER: We have a motion on the  
26 nomination.

27 I haven't asked if there are any members of the  
28 audience that wish to comment? Yes, sir.





1 MR. VILLANOWETH: After hearing all that testimony,  
2 I'm going to withdraw my comments.

3 I'm in full support of the confirmation.

4 I'm Roberto Villanoweth.

5 CHAIRMAN LOCKYER: Thank you, sir.

6 Okay, the motion is before us. Call the roll,  
7 please.

8 SECRETARY WEBB: Senator Ayala.

9 SENATOR AYALA: Aye.

10 SECRETARY WEBB: Ayala Aye. Senator Beverly.

11 SENATOR BEVERLY: Aye.

12 SECRETARY WEBB: Beverly Aye. Senator Petris.

13 SENATOR PETRIS: Aye.

14 SECRETARY WEBB: Petris Aye. Senator Craven.

15 SENATOR CRAVEN: Aye.

16 SECRETARY WEBB: Senator Craven Aye. Senator  
17 Lockyer.

18 CHAIRMAN LOCKYER: Aye.

19 SECRETARY WEBB: Five to zero.

20 CHAIRMAN LOCKYER: Good luck.

21 MS. SEPULVEDA-BAILEY: Thank you very much.

22 [Thereupon this portion of the  
23 Senate Rules Committee hearing  
24 was terminated at approximately  
25 2:57 P.M.]

26 --oo0oo--  
27  
28




CERTIFICATE OF SHORTHAND REPORTER

I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 7<sup>th</sup> day of February, 1994.

  
EVELYN J. MIZAK  
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APPEARANCESMEMBERS PRESENT

SENATOR WILLIAM LOCKYER, Chair

SENATOR WILLIAM CRAVEN, Vice Chair

SENATOR RUBEN AYALA

SENATOR ROBERT BEVERLY

SENATOR NICHOLAS PETRIS

STAFF PRESENT

CLIFF BERG, Executive Officer

PAT WEBB, Committee Secretary

RICK ROLLENS, Consultant on Bill Referrals

NANCY MICHEL, Consultant on Governor's Appointments

ALSO PRESENT

THOMAS J. GIAQUINTO, Member  
Board of Prison Terms

CAROLE A. HOOD, Chief Deputy Director  
Department of Mental Health

CATHERINE CAMP  
California Mental Health Directors Association

CARLOS L. LOPEZ, Deputy Director  
Employment Development Department

VINCENT C. PALMER, Member  
Youthful Offender Parole Board

DOROTHY MONTGOMERY

ELEANOR F. BRANNON



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## P-R-O-C-E-E-D-I-N-G-S

--oo0oo--

CHAIRMAN LOCKYER: Going to Item One, gubernatorial appointees, we have a number that were required to appear. I guess, taking them in order, our first is Mr. Giaquinto, and I probably haven't said that right.

Good afternoon.

MR. GIAQUINTO: Good afternoon.

CHAIRMAN LOCKYER: Do you have any prepared comments that you'd like us to hear about your qualifications?

MR. GIAQUINTO: Well, I'm sure that one of your concerns is why I may be qualified for this position that I've been appointed to. And to that issue, I would inform the Senators, very briefly, of my background.

I recently retired from the San Diego Police Department, and as you know, it's a city of one million-plus people, after having served there honorably for 24 years.

Prior to that, I was in the United States Navy for four years as a Navy corpsman, and I was stationed with the United States Marine Corps for several years in my time in the Navy.

While I was with the Police Department, I served in various functions. I was in Investigations for approximately 18 years of that time, and I achieved the rank of Lieutenant. I was in the first category of the Captain's promotional process when I retired. During the time that I was in Investigations, I served in a number of different investigative units, including Homicide, and Vice, Robbery, and I was a cross-sworn federal





1 agent with the Drug Enforcement Administration.

2 And what that really tells you is that I was a police  
3 officer for 24 years, and I was given an opportunity to work  
4 within the justice system in many different facets of the  
5 justice system: everything from the issuance of a citation when  
6 I was a very young police officer, to completing investigations,  
7 very complex investigations, and seeing the investigations  
8 through to successful prosecutions, and ultimately,  
9 incarceration of the perpetrators of those crimes.

10 And during investigations, you have to look through  
11 the complexities, not only to identify the perpetrators of the  
12 crimes, but also to eliminate those that are not guilty of the  
13 offense, or maybe an accusing finger has been pointed at them  
14 and they should not be prosecuted. So, there's many complex  
15 issues that involve being an investigator in law enforcement and  
16 working within the judicial system.

17 And learning the system, learning the appeals system,  
18 having cases taken to the Supreme Court, looking for the  
19 pitfalls in improper decisions, and in effect, I've been in  
20 training for more than two decades for this position, Senator.

21 Thank you.

22 CHAIRMAN LOCKYER: How do you think it helps you make  
23 a judgment about who should be released or not?

24 MR. GIAQUINTO: Well, sir, there's many different  
25 issues that come into play about whether someone should be given  
26 parole. And you have to, first of all, maintain objectivity  
27 when you're dealing with the law, because the law mandates who  
28 shall or shall not be released on parole, and who may be



1 suitable, and you have to work within the parameters of what the  
2 law provides. So therefore, you have to consider every aspect  
3 of the suitability in terms of whether the person is going to  
4 re-offend, whether the person truly has insight and remorse into  
5 the crime, whether that person's been rehabilitated to the point  
6 that they can go out and successfully compete as a citizen in  
7 our communities, and not necessarily have to re-offend so that  
8 they can live, or because they have a propensity towards being a  
9 criminal.

10 Law enforcement trains you to talk with people, to be  
11 compassionate when it's necessary, to be objective. You cannot  
12 successfully retire from law enforcement and not be objective  
13 because there's too many checks and balances above your  
14 position. Everything from the D.A. who investigates the case,  
15 to the United States Supreme Court will look at everything  
16 you've done from the time you've contacted that person to see if  
17 you've made a fair and impartial decision, and you were  
18 objective in the proceedings that brought you to prosecute or to  
19 arrest this person.

20 And the same principles have to be applied when  
21 you're talking to a prisoner about suitability. You have to  
22 look at that person. You have to see, first of all, if you are  
23 being fair and impartial. Are you going to be overturned on an  
24 appeal? Are you going to make bad law that's going to impact  
25 the entire state by not making sure that the prisoner's rights  
26 have been protected? And there are many rights that the  
27 prisoners have and have to be protected by any person that  
28 considers suitability. That the citizens' concerns are taken



1 into effect.

2 CHAIRMAN LOCKYER: You've been there about seven  
3 months.

4 MR. GIAQUINTO: About seven months, yes, sir.

5 CHAIRMAN LOCKYER: What comes to mind as the toughest  
6 decision you've had to make so far?

7 MR. GIAQUINTO: I would say that there's no one  
8 specific case, but in general, it's those prisoners that have  
9 programmed well in terms of vocational programming, educational  
10 programming. They've been disciplinary free while they've been  
11 in prison, and they may or may not have been the person that  
12 actually committed the murder. They may have been a crime  
13 partner. And the person does not seem -- they have no prior  
14 criminality, and everything is in their favor, and it seems that  
15 they probably will not re-offend, but there's a question about  
16 whether they need to serve more time simple because the act was  
17 such a terrible and atrocious act to begin with.

18 And those are real tough sometimes, because if  
19 someone's served 10 or 12 years, and they've been sentenced to  
20 25 years to life, but they're a model prisoner, what do you do?  
21 You have to -- there's many things you have to weigh very, very  
22 carefully, and not only the rights of the citizens and whether  
23 our citizens want this murderer to be paroled, but the law does  
24 provide that they are eligible for parole, provided they've met  
25 all the criteria that we're concerned about.

26 CHAIRMAN LOCKYER: How many have you had to review in  
27 seven months?

28 MR. GIAQUINTO: Well, sir, I can only guess. It's an





1 average of about 12 to 15 a week, and I've been doing it for  
2 about 7 months, so that's about 90 a month.

3 CHAIRMAN LOCKYER: Any sense of the ratio of those  
4 that were scheduled for released versus those that were denied  
5 during that time?

6 MR. GIAQUINTO: In terms of what, sir?

7 CHAIRMAN LOCKYER: Your determinations that you made,  
8 where you either denied a parole request, or someone was  
9 scheduled for release. How many are there in each basket?

10 MR. GIAQUINTO: In terms of those that I thought may  
11 be eligible for parole but were not granted parole?

12 CHAIRMAN LOCKYER: Yes.

13 MR. GIAQUINTO: Well, I would say less than five  
14 percent.

15 I've had some interesting experiences since I've been  
16 there. And I'm still in the learning phase.

17 My experience has been that many times, what appears  
18 at face value to be a prisoner that probably is suitable for  
19 parole, once you start probing into the issues of insight and  
20 remorse, and many times you will find that the prisoner, even  
21 though they've been given a clear bill of health by  
22 psychiatrists and other people employed by the various  
23 correctional institutions, that after 10 or 15 years, the  
24 prisoner is still trying to mitigate his or her individual  
25 involvement in the crime, you know. So, that changes the  
26 complexion of everything you've just looked at, where the  
27 psychiatric report was favorable, and they've programmed well,  
28 and there's relatively no disciplines.



1 Does that answer your question?

2 CHAIRMAN LOCKYER: Partly.

3 MR. GIAQUINTO: I might have got off on a tangent.

4 CHAIRMAN LOCKYER: No, no. I just mostly want to  
5 engage you and have us sort of understand who you are.

6 MR. GIAQUINTO: Okay.

7 CHAIRMAN LOCKYER: The statistic I recall is  
8 something like three percent of the prisoners subject to  
9 indeterminate sentences re-offend after they're released. That  
10 it's the determinate bunch that are much more likely to be back.

11 Does that seem right to you?

12 MR. GIAQUINTO: Well, sir, you know, I can't really  
13 speak intelligently to that issue, and I'll tell you why.

14 I've heard the same thing you've heard, sir. In  
15 fact, I heard two percent, to be perfectly honest with you.

16 But when I heard it, I asked for all of the  
17 information. Are we saying they don't re-offend on the same  
18 type of crime? In other words, a murderer doesn't go out and  
19 commit another murder except two percent of the time. Or, you  
20 know, what are the statistics? They never get in trouble again,  
21 or they commit other offenses but not a murder?

22 So, I don't know, sir. I can't answer that.

23 CHAIRMAN LOCKYER: The claim I heard is, not back for  
24 any felonies, but then, this is normal conversation, not studies  
25 that are pushed in my face.

26 MR. GIAQUINTO: Right.

27 CHAIRMAN LOCKYER: Questions from other Members?  
28 Senator Ayala.



1           SENATOR AYALA: Mr. Giaquinto, what factors in your  
2 review are most important in determining when an inmate,  
3 convicted of murder or rape, is suitable for parole? What do  
4 you think are the most important factors involved here?

5           MR. GIAQUINTO: Well, as I said before, it's  
6 difficult for me to place any higher degree of importance on one  
7 aspect of it. You know there's several different segments at a  
8 suitability hearing.

9           They're all so important and have to be taken  
10 collectively. I definitely want to know if this prisoner has  
11 insight into why this crime occurred. Why were you there? Why  
12 did you murder this person; why did you rape this woman and then  
13 torture her, and then do terrible things to her? How much  
14 insight do you have?

15           And when I have a prisoner before me that is trying  
16 to mitigate culpability, and saying, "Well, yes, I did this  
17 terrible crime and I admit that, and you've got me here for it,  
18 and I'd like to get out. And I've programmed well, except this  
19 was an accident. I didn't mean to kill her after I raped her.  
20 I banged into a tree." Or, "She pushed the gun away from me."

21           Well, I'm going to explore the police reports to find  
22 out if there were powder burns on that victim and ask the  
23 prisoner in depth about that particular event so I can see if  
24 they're really just -- they have no insight.

25           That's real important, because if they're still  
26 trying to fool the Board, 15 years after the offense, what are  
27 they going to do on the outside? And, that dovetails right into  
28 the psychiatric reports, because if the psychiatric report





1 indicates that this person either has insight or has  
2 rehabilitated to some extent, then I would say -- or my next  
3 question is, "Well, if you've tried to fool the Board today by  
4 not being completely truthful," and many times we can disprove  
5 what the prisoner is saying, then, in effect, when they went to  
6 the psychiatrist or psychologist and were not truthful, that  
7 would alter the psychiatric opinion of this individual, so  
8 therefore, the psychiatric report may be null and void, or not  
9 as accurate as it could be.

10 Rehabilitation is very important.

11 And I don't know if I'm answering your question quite  
12 the way you wanted me to, but I think you have to collectively  
13 take everything into account.

14 SENATOR AYALA: You have to ponder many factors.

15 MR. GIAQUINTO: You have to. There's so many  
16 different things. You have to look at the person's background.  
17 There's a very common thread I see in more than -- and I'm going  
18 to throw a figure out here. Please don't hold me to it.

19 But it seems to me like 80-90 percent of all of the  
20 murderers that I see come from broken families.

21 SENATOR AYALA: Senator McCorquodale had a bill 10  
22 years ago. Prior to that time, when an inmate had served his  
23 time, you could not retain that individual; you had to release  
24 him. But through Senator McCorquodale's bill, I recall, it said  
25 that if the medical profession involved in that institution  
26 doesn't feel that that person can walk the streets and not cause  
27 problems to society, they can still retain them as long as  
28 they're under that medical condition.



1           Is that correct?

2           MR. GIAQUINTO: I'm not familiar with that, sir.

3           SENATOR AYALA: One more question.

4           Under what circumstances should the Governor have  
5 authority to review an inmate's established parole date? Is  
6 there any way that you can tell me when the Governor -- he has  
7 the authority under any conditions, does he not, to review the  
8 parole board?

9           MR. GIAQUINTO: That's correct. The Governor can  
10 review the decisions of the parole board.

11          SENATOR AYALA: But other than review, what can he do  
12 with it? Can he refuse the direction the parole board has taken  
13 and not release that individual?

14          MR. GIAQUINTO: The Governor can formally request  
15 that the Board of Prison Terms reconsider their decision, and  
16 that decision may have been to grant parole or to deny parole,  
17 either way. The Governor has the right to formally request that  
18 the Board reconsider.

19          SENATOR AYALA: The Governor can overrule your  
20 commission?

21          MR. GIAQUINTO: The Governor can request that the  
22 Board consider, en banc, their prior decision.

23          SENATOR AYALA: But that hasn't happened lately, has  
24 it, where the Governor gets involved?

25          I know that Governor Deukmejian was very strong in  
26 that area, but he never once used that opportunity.

27          MR. GIAQUINTO: Well, in fact the Governor has, since  
28 I've been a member of the Board of Prison Terms, has requested



1 on several occasions that the Board reconsider decisions that  
2 had been made.

3 SENATOR AYALA: Asked you to reconsider?

4 MR. GIAQUINTO: Yes, to consider en banc prior  
5 decisions.

6 And I think that's good, because in effect, the  
7 Governor has, of course, as you well know, a staff of attorneys  
8 that may review this. And if there was some technical error  
9 that the Board's committed, I think it's good that we have that  
10 level of review to send it back and say, "Hey, look, maybe you  
11 didn't consider this aspect of this prisoner, and maybe they're  
12 not as suitable or unsuitable as you thought."

13 SENATOR AYALA: Thank you.

14 MR. GIAQUINTO: Thank you.

15 CHAIRMAN LOCKYER: Other questions? Senator Petris.

16 SENATOR PETRIS: As I understand the statute, it  
17 gives him authority to revoke the decision of the Board, not  
18 just ask for a review.

19 But the interesting thing is, after all the fuss in  
20 getting that passed, the Governor, who really pushed it, never  
21 used that authority. Maybe as time goes by, we'll get a little  
22 more experience in that.

23 I had a question on work in the prisons. First of  
24 all, let's take school. If the prisoner goes to school, does he  
25 get credit for time in completing a course?

26 MR. GIAQUINTO: Yes. My understanding, and I'm not  
27 as articulate in that area as I should be, but my understanding  
28 is that a prisoner that has completed schooling -- and it does





1 break it down into high school, two-year degrees, and four-year  
2 degrees -- that a certain amount of credit can be achieved by  
3 that prisoner when he's being considered for parole.

4 SENATOR PETRIS: How about for work?

5 MR. GIAQUINTO: Well, I'm not sure. I know that -- I  
6 know this, sir, that when we do grant a date for a prisoner, we  
7 will go back over all of the preceding years that the prisoner  
8 has been incarcerated and look at all of the achievements that  
9 they've had, including vocational, work, programming, whether  
10 they've completed vocation or educational, and give them credits  
11 for positive things that they've done during the time that  
12 they've been incarcerated up to and including the time, you  
13 know, when we're considering them for suitability.

14 Of course, I'm only dealing with lifers. I don't  
15 know what other good credits -- I understand the prisoners can  
16 achieve good credits under other conditions, good time credits.

17 SENATOR PETRIS: I thought it was a day off for every  
18 day of work.

19 MR. GIAQUINTO: I know we give them four months --

20 CHAIRMAN LOCKYER: In the determinate universe; under  
21 the indeterminate it's not.

22 SENATOR PETRIS: Determinate can do it.

23 Well, I asked the question because I've heard some  
24 things on the radio today from the -- or yesterday -- from the  
25 Crime Summit. One or two Legislators were demanding that we put  
26 the prisoners to work. Nobody works in prison. A couple of  
27 uninformed Legislators adding to the confusion in this whole  
28 Crime Summit problem. It kind of surprised me that they were



1 saying it, "Why don't we put the prisoners to work? They ought  
2 to be working."

3 Well, I thought they'd been working for a long, long  
4 time, many, many years. Now, how much credit they get, I don't  
5 know.

6 CHAIRMAN LOCKYER: There are waiting lists.

7 SENATOR PETRIS: That's right. There are waiting  
8 lists to get into it.

9 We've got to, I guess, educate people about that.  
10 Thank you.

11 MR. GIAQUINTO: Thank you, Senator Petris.

12 CHAIRMAN LOCKYER: Is there anyone who wishes to  
13 testify either for or against the matter present?

14 What's the --

15 SENATOR CRAVEN: Move Mr. Giaquinto.

16 CHAIRMAN LOCKYER: We have a motion to recommend for  
17 confirmation.

18 Call the roll, please.

19 SECRETARY WEBB: Senator Ayala.

20 SENATOR AYALA: Aye.

21 SECRETARY WEBB: Ayala Aye. Senator Beverly.

22 SENATOR BEVERLY: Aye.

23 SECRETARY WEBB: Beverly Aye. Senator Petris.

24 SENATOR PETRIS: Aye.

25 SECRETARY WEBB: Petris Aye. Senator Craven.

26 SENATOR CRAVEN: Aye.

27 SECRETARY WEBB: Senator Craven Aye. Senator  
28 Lockyer.



1 CHAIRMAN LOCKYER: Aye.

2 SECRETARY WEBB: Five to zero.

3 MR. GIAQUINTO: Thank you, sir.

4 CHAIRMAN LOCKYER: Carole Hood.

5 Good afternoon. Why don't you tell us a little bit  
6 about this particular job that, I guess, you're already in.

7 MS. HOOD: Yes.

8 CHAIRMAN LOCKYER: And what you do.

9 MS. HOOD: Thank you, Mr. Chairman and Members of the  
10 Committee.

11 I'm glad to have this opportunity to present my  
12 qualifications. I have been the Chief Deputy Director at the  
13 Department of Mental Health now for just over nine months. And  
14 a few weeks ago, my boss, Dr. Stephen Mayberg, who's the  
15 Director of Mental Health, appeared before the Committee and  
16 shared his vision for the Department. And in doing so, he spoke  
17 of the vision and the value system that we have in the  
18 Department and are trying to instill, which is to develop a  
19 mental health system that fosters independence and empowers  
20 consumers, and families, and providers to make positive changes,  
21 and to grow, and to evolve.

22 He also spoke about three initiatives that we have  
23 undertaken at the Department of Mental Health. One is, first,  
24 to reorganize the Department so that it truly does reflect the  
25 values of the mental health system. And also to provide a very  
26 strong state-level leadership role, which has not been that  
27 strong in the past, at least in the recent past.

28 We are focusing on providing training and technical





1 assistance, and to facilitate, really, the counties in  
2 performing their jobs at the local level.

3 The second area that we are implementing is to not  
4 only improve the service delivery system, but also to seek  
5 additional federal financial support and other support where we  
6 can, so that we can really enhance services that can be  
7 provided. We've already made some pretty dramatic moves in  
8 terms of gaining additional federal funds through the  
9 rehabilitation option, and now we're moving into a managerial  
10 health care system, which is comparable to what is going on in  
11 Health Services with their managed care, but is the carved out  
12 portion for Mental Health.

13 The other area that we have focused on is to  
14 restructure and reform the current State Hospital services that  
15 are provided. And since realignment, we clearly now have become  
16 another provider of services and have to make sure that we not  
17 only provide a broader array of services at the hospitals, but  
18 also to do that in a very cost-effective manner.

19 Now, given all of these initiatives, and it's a fair  
20 amount to undertake, my job at the Department is really for the  
21 ongoing management of the day-to-day operations, and really to  
22 make sure that I can work with staff and the constituency that  
23 we're serving to make sure that all of these different  
24 initiatives become a reality.

25 I've had a -- I think my background is well suited to  
26 this challenge. I've had about 18 years of state service. I  
27 began as a graduate student assistant for the Department of  
28 Finance, and have worked up from that through various levels to



1 management levels for the past 12 years.

2 During this time, I've been the Chief Deputy Director  
3 for three state agencies: Social Services, Developmental  
4 Services, and now Mental Health. I've also served as the Deputy  
5 Secretary for Program and Fiscal Affairs for the Health and  
6 Welfare Agency, and also as Interim Director for the Department  
7 of Alcohol and Drug Programs during the transition from Governor  
8 Brown to Governor Deukmejian.

9 I think of particular help for this job have been my  
10 recent experiences in overseeing State Hospital operations, and  
11 also participating in the completion of the governance study for  
12 mental health which was done in the past year.

13 All of these experiences have been challenging and  
14 rewarding, and I think they have prepared me well for this  
15 current challenge. And I hope that I will have the opportunity  
16 to continue our efforts with the endorsement of this Committee.

17 Thank you.

18 CHAIRMAN LOCKYER: Thank you very much.

19 What's the hardest part of your job?

20 MS. HOOD: I think the hardest part of the job is  
21 managing many different people, many different perspectives in  
22 the Department, but doing that in a way to invite the input from  
23 everybody, and then coming to, hopefully, a consensus and moving  
24 ahead.

25 I think I am somewhat of a -- very much a thinking  
26 manager. And although decisions, you hope, are always based  
27 upon the best information available, I do care about what people  
28 think and their opinions, we try to incorporate that into what



1 we do. I think that's always the most difficult.

2 CHAIRMAN LOCKYER: Is there any somewhat  
3 institutional tension between different perspectives that's one  
4 you cope with regularly?

5 MS. HOOD: I think this system has undergone so much  
6 rapid change since realignment that there are a lot of those  
7 kinds of tensions in terms of moving ahead. And I think that's  
8 natural. It's more change than it is a difference in philosophy  
9 or where we're going.

10 I think the nice thing about Mental Health in the  
11 past couple of years has been the pulling together of all of the  
12 different constituencies with a shared vision, which is quite  
13 unique for this field for sometime.

14 CHAIRMAN LOCKYER: There's been a fairly dramatic  
15 drop in State Hospital admissions, I guess at least partly due  
16 to the realignment changes.

17 MS. HOOD: Yes.

18 CHAIRMAN LOCKYER: Is that likely to continue? Can  
19 you predict at all the direction of that?

20 MS. HOOD: Well, since realignment, so from 1991  
21 until the current year, we've had a drop in LPS commitments of  
22 about 800. That's about 30 percent, which is very significant.

23 What it has caused us -- and of course, the  
24 relationship has changed, where now the counties have the money  
25 to purchase the service from the state, and we are, in essence,  
26 another provider out there, just like any other provider.

27 What it has caused us to do is to really re-evaluate  
28 the types of services that we're providing, and we also have to





1 provide those services at an affordable rate. And State  
2 Hospital services have not been affordable in the past.

3 This year, we included in the budget and are on track  
4 at this point to bring in additional \$34 million in federal  
5 revenue which offsets the cost, and then permits counties to  
6 purchase at a lower rate. We hope to be successful in that, but  
7 clearly, I think, State Hospitals will have to be something  
8 quite different in the future. Bringing in the revenue was a  
9 short-term, but I think now -- and we have a process working at  
10 this point to look to the long-term: what should the role of  
11 the state be in delivering services; are there services that we  
12 can provide more cost effectively than home communities can? If  
13 that's not the case, our preference is clearly to have the  
14 service provided in the individual's home community.

15 But we're looking at a variety of options, from  
16 partial hospitalization, to can we do some transition services  
17 on the campuses of State Hospitals, can we use them to be  
18 resource centers to community programs, can we provide training  
19 with some of our very skilled, and just a whole variety of  
20 things.

21 CHAIRMAN LOCKYER: Other Members? Senator Petris.

22 SENATOR PETRIS: Have you had a chance to study the  
23 Clinton health proposals --

24 MS. HOOD: Yes.

25 SENATOR PETRIS: -- with respect to mental health?  
26 Are they adequate?

27 MS. HOOD: I think the very good news about the  
28 Clinton health proposal is that it does address mental health.



1           SENATOR PETRIS: Yes, most proposals don't.

2           MS. HOOD: Which many haven't in the past. And so,  
3 that really is good, and it doesn't preclude pre-existing  
4 conditions, which has always been a problem for mental health.

5           At this point, there are things that we would like to  
6 see much different. Right now it is very much in-patient based  
7 and very much medical model; where now we're talking about  
8 trading days of in-patient for out-patient services.

9           What we would like to see is a much more flexible  
10 benefit plan so that we can do some of the things that we've  
11 piloted in California with our systems of care approach to  
12 service delivery. And if it focuses and stays focused on just  
13 the in-patient, it could be problematic for us.

14          SENATOR PETRIS: Well, I'm delighted to say the same  
15 thing you did, that at least this plan addresses the mentally  
16 ill and provides some substantial improvement over prior plans.

17          But they still distinguish between the mentally ill  
18 and the other rest of the physical ailments. I don't know why  
19 in the world we make that distinction, unless it's a budgetary  
20 consideration. We don't stay you can only stay in the hospital  
21 so long if you have tuberculosis, for example, or some other  
22 thing. It doesn't make sense to me.

23          Don't you think the state, well, the nation should  
24 have a program that provides whatever care is necessary without  
25 these arbitrary time periods for in-patient especially?

26          MS. HOOD: For mental health, it would make a lot  
27 more sense for us to have it be more flexible, and that's clear.

28          SENATOR PETRIS: I remember one time Governor Pat



1 Brown was concerned about this, and he issued an Executive  
2 Order. I don't know if it's still in effect, but with respect  
3 to state employees, he said to the insurance companies that  
4 their contract was going to be conditioned on whether or not  
5 they offered services for the mentally ill, and compelled them  
6 to include a program for the mentally ill, which had never been  
7 done before.

8 Beyond that, we haven't legislated it, but it seems  
9 to me we ought to revisit that, because it's an increasing  
10 problem. More and more people are having the problem.

11 I'm glad to hear you support the flexibility where we  
12 can do something.

13 Thank you.

14 CHAIRMAN LOCKYER: Other Senators?

15 Is there anyone present who would wish to comment?

16 MS. CAMP: Catherine Camp, representing the  
17 California Mental Health Directors Association.

18 We'd like to strongly urge you to confirm Ms. Hood.  
19 The leadership that she and Dr. Mayberg have provided has made a  
20 dramatic difference in our ability to delivery good services to  
21 the mentally ill as a partnership between the state and  
22 counties. We'd urge you to endorse that leadership.

23 CHAIRMAN LOCKYER: Thank you.

24 Questions? Other commentors?

25 SENATOR CRAVEN: I'd like to move the confirmation to  
26 the Floor.

27 CHAIRMAN LOCKYER: We have a motion.

28 Let's call the roll, please.





1 SECRETARY WEBB: Senator Ayala.

2 SENATOR AYALA: Aye.

3 SECRETARY WEBB: Ayala Aye. Senator Beverly.

4 SENATOR BEVERLY: Aye.

5 SECRETARY WEBB: Beverly Aye. Senator Petris.

6 SENATOR PETRIS: Aye.

7 SECRETARY WEBB: Petris Aye. Senator Craven.

8 SENATOR CRAVEN: Aye.

9 SECRETARY WEBB: Senator Craven Aye. Senator  
10 Lockyer.

11 CHAIRMAN LOCKYER: Aye.

12 SECRETARY WEBB: Five to zero.

13 MS. HOOD: Thank you very much.

14 CHAIRMAN LOCKYER: Good luck.

15 Mr. Lopez is our next appointee.

16 How do you do, sir?

17 MR. LOPEZ: Fine, thank you.

18 CHAIRMAN LOCKYER: Do you want to tell us a little  
19 about yourself and your qualifications for the job?

20 MR. LOPEZ: I have about a three-minute prepared  
21 statement, if I may.

22 CHAIRMAN LOCKYER: Certainly.

23 MR. LOPEZ: Talk a little bit about the branch and  
24 responsibilities, and then my qualifications as they relate to  
25 the position.

26 As the Deputy Director of the Employment Training  
27 Branch, I will be responsible for the administration and  
28 oversight of the Job Training Partnership Act, JTPA. For next



1 program year, it is estimated that the state will receive \$550  
2 million for the training of economically disadvantaged persons  
3 and displaced workers.

4 We have the oversight of the delivery system  
5 throughout the state, and our role, of course, is to provide  
6 direction to the service delivery system throughout the state,  
7 to provide up to date training and job placement services for  
8 the unemployed. This means working with the local partners,  
9 including the private sector, service providers, and local  
10 governments, and assisting displaced workers, and the  
11 economically disadvantaged with job training and employment.

12 The other oversight includes the Los Angeles Recovery  
13 Team that we have oversight over, which is working with local  
14 government in Los Angeles for the civil unrest funds that we  
15 have in Los Angeles, as well as the more recent Northridge  
16 earthquake.

17 The other oversight is the Governor's Committee for  
18 the Employment of Disabled Persons and the Governor's Task Force  
19 for Employment of Older Workers, which is education and getting  
20 the word out to the public sector and private sectors in terms  
21 of job opportunities for those groups.

22 In terms of qualifications, I'd like to state that  
23 all my professional work life of 21 years, excluding two years  
24 of serving in the United States Army, has been either in the  
25 administration of training programs, with the hands-on  
26 experience of serving people by training them and placing them  
27 into full-time employment with the private sector. I've been a  
28 basic education instructor, a statistics supervisor, to job



1 developer, a Director of Training Operations, and a Regional  
2 Director of Training, managing up to ten training sites in  
3 Central and Northern California.

4 This experience has allowed me the opportunity to  
5 manage successful training programs in 27 demand occupations,  
6 and the job placement of over 2,500 persons per year, very much  
7 hands-on type training experience with people in the private  
8 sector.

9 Clients served include welfare recipients, migrant  
10 and seasonal farmworkers, veterans, older workers, ex-offenders,  
11 people with physical disabilities, and the economically  
12 disadvantaged.

13 The most recent years of my professional experience  
14 have involved the retraining and job placement of displaced  
15 workers primarily as a result of downsizing in the electronic  
16 manufacturing industry and automotive industry in Central  
17 California.

18 Over the years, I've worked with local and government  
19 officials, as well as state and federal training agencies. In  
20 my previous position as the Assistant Director of the Employment  
21 Training Panel, I have had opportunity for even greater insight  
22 and understanding of retraining and upgrading the skills of  
23 people in order for them to remain productive and keep their  
24 jobs in an ever changing job market.

25 As Deputy Director of the Employment Training Branch,  
26 it is my vision that we in California have the most productive  
27 work force in the country. People need jobs with higher wages,  
28 and the private sector needs highly skilled productive





1 employees. We can accomplish this by having a delivery system  
2 that provides training opportunities for people to obtain the  
3 skills necessary to prepare a work force for the private sector  
4 employment needs.

5 Thank you for your consideration. I'll answer any  
6 questions you may have.

7 CHAIRMAN LOCKYER: Okay, sir.

8 Are there questions from Members?

9 SENATOR CRAVEN: I have a question, Mr. Chairman.

10 SENATOR AYALA: I have questions, Mr. Chairman.

11 CHAIRMAN LOCKYER: Senator Craven and then Senator  
12 Lockyer.

13 SENATOR CRAVEN: This is very, very simply a question  
14 to understand what I have here in my book.

15 Santa Clara County Programs Operators Association;  
16 can you tell me what that is, please?

17 MR. LOPEZ: Yes. In Santa Clara County, there were  
18 18 or more training providers in the valley who provided direct  
19 services to the private sector. And in all cases, they were  
20 funded under the Job Training Partnership Act.

21 I served as their Chairperson for almost three years,  
22 and also was their appointed person to the local Private  
23 Industry Council in Santa Clara County. So, I represented the  
24 Program Operators Association or training agencies on the  
25 Private Industry Council as a community-based organization  
26 representative.

27 SENATOR CRAVEN: Very good, thank you.

28 CHAIRMAN LOCKYER: Senator Ayala.



1           SENATOR AYALA: My question is, Mr. Lopez, what is  
2 your office doing to maximize the use of Federal Defense  
3 Conversion monies that are available in California? How are you  
4 utilizing them to maximize those monies?

5           MR. LOPEZ: What we do is work through the delivery  
6 system throughout California. And what we do is have the  
7 service delivery area administrators, if you will, outreach down  
8 to the companies that have been affected by downsizing. And  
9 in fact, we have what is called a Rapid Response Team within the  
10 Department, the Employment Development Department, where there's  
11 a requirement that within 48 hours, that if a company is closing  
12 down, that they give us a warn notice, a notice of downsizing or  
13 laying off employees, to go out to the company immediately and  
14 work out a plan of service to the people that are affected by  
15 the downsizing.

16           In fact, what we do within the Department, there are  
17 many industries, including war industries, for example, in  
18 Riverside, and many other companies where EDD immediately goes  
19 out, if you will, to go into the companies and provide immediate  
20 assessment and job placement services, or referral into a  
21 training program if they need retraining.

22           SENATOR AYALA: But you are working with local  
23 agencies?

24           MR. LOPEZ: That is correct. We work with the local  
25 partners. Much of the delivery system is local decision making.  
26 Not just the local elected officials, but the people who manage  
27 the training programs locally throughout California.

28           SENATOR AYALA: Thank you.



1 CHAIRMAN LOCKYER: If you were to redesign either  
2 state or federal JTPA, do you have any sort of conceptual notion  
3 about what direction you'd go differently, or a structure that  
4 you would prefer?

5 MR. LOPEZ: The JTPA program?

6 CHAIRMAN LOCKYER: Yes.

7 MR. LOPEZ: I think -- I think that's a very good  
8 question. I think let me start that the Job Training  
9 Partnership Act program is one program in California among 23 in  
10 the state. And the 23 programs combined represent approximately  
11 \$3 billion in employment and training dollars.

12 And I think that both at the state level and at the  
13 local level, there's a better -- there's a need for coordination  
14 among those training programs to outreach to the community to  
15 train people and to the private sector.

16 So, I think part of the redesign is formal linkages,  
17 if you will, with other training providers locally, and provide  
18 resource information to the people who need training, and to  
19 provide it to them as quickly as possible. Each program has a  
20 different set of rules, and I think there's a need for  
21 commonality of rules. We have 23 different sets of regulations,  
22 for example, on these 23 different programs. And there's some  
23 confusion, obviously, out in the community, with the private  
24 sector and the people, and there's the need for coordinating  
25 that more effectively.

26 It goes beyond JTPA, but that's in the bigger  
27 picture.

28 CHAIRMAN LOCKYER: I noted Senator Johnston, who





1 Chairs the Industrial Relations Committee for us, is currently  
2 considering ways to integrate and better manage those disparate  
3 programs, and I'd encourage you to check in with him to share  
4 your thoughts.

5 MR. LOPEZ: I shall do that.

6 As a matter of fact, he has a representative on our  
7 new State Job Coordinating Council, and has taken a very active  
8 role in that effort.

9 CHAIRMAN LOCKYER: Are we wasting any significant  
10 chunk of the 3 billion?

11 MR. LOPEZ: I -- that is -- there are -- all these  
12 other programs are distinct and different. I am not the expert  
13 on those other programs. I could not really dialogue on the  
14 others.

15 I would have concern regarding some of the programs  
16 that I am aware of in terms of being closer to the private  
17 sector. There are some good points and bad points about other  
18 programs.

19 In the GAIN program, which is outside JTPA, that  
20 services welfare recipients, my experience in training welfare  
21 recipients over the years is that they need not just self-  
22 esteem building and industrial skill work habit training, but  
23 real technical training for the private sector. It's full-time  
24 training that they need, not just social services, but direct  
25 training for the private sector.

26 CHAIRMAN LOCKYER: Other questions? Senator Petris.

27 SENATOR PETRIS: Is there any training program for  
28 entrepreneurs at the present time?



1           MR. LOPEZ: We have, just as an exception to the rule  
2 as part of the Los Angeles Recovery Project, some  
3 entrepreneurship training programs, which is unique and  
4 different from normal training programs, and that's under --  
5 that's because there's been a waiver to the state funding  
6 allowed for the civil unrest in Los Angeles. And we are  
7 providing some entrepreneurship training in the Long Beach area  
8 for people who want to go into their own businesses, but those  
9 training programs, it's my understanding, are limited.

10           SENATOR PETRIS: Is it too early to tell, to rate  
11 them as to how successful they are?

12           MR. LOPEZ: On the entrepreneurship --

13           SENATOR PETRIS: Yes.

14           MR. LOPEZ: -- side of it?

15           I could not answer that, sir. I'm not real familiar  
16 with the entrepreneurship end of training programs.

17           SENATOR PETRIS: The reason I asked, I carried a bill  
18 years ago to create entrepreneurship. All these training  
19 programs are great, and they're designed to help people to lack  
20 the skills. A lot of them are in the minority community. And I  
21 felt, why don't we elevate the sights? Why get them to think  
22 about owning a business, being the boss, and learning how to run  
23 it?

24           And Governor Deukmejian vetoed it, but he told me  
25 that he thought it was a good idea, and that he would try to  
26 have EDD do it administratively, and he did. They did some  
27 pretty good things. I remember in the Bay Area, we worked with  
28 the Business Council on a cooperative effort in that program,



1 and every year there was a luncheon in Oakland honoring the  
2 Entrepreneur of the Year, who was trained by that program. Now  
3 he's out there, or she, a successful business person.

4 Are there any remnants of that part of the training  
5 left, or did they leave when Deukmejian left?

6 MR. LOPEZ: I'm not familiar with that program, sir,  
7 in terms of what they've done at that point.

8 I've been in this position ten months as a Deputy  
9 Director of Employment and Training Branch, and of course, very  
10 familiar with the Employment Training Panel Program.

11 I think it's an area where the Trade and Commerce  
12 Agency is very involved in terms of working with businesses and  
13 entrepreneurship. Our role is the work force preparation of  
14 workers with new and upcoming jobs, and the entrepreneurship end  
15 of it has been very limited.

16 But it's something that we can pursue and come back.

17 SENATOR PETRIS: Yes, I'd like that. I'd appreciate  
18 it if you could follow through. And if Trade and Commerce is  
19 doing it, I'd like to find out who's in charge so I can pursue  
20 that.

21 CHAIRMAN LOCKYER: Senator Craven.

22 SENATOR CRAVEN: Thank you, Mr. Chairman.

23 Following Senator Petris's comment, I notice that you  
24 have an undergraduate degree in management. I'm wondering if  
25 your alma mater does anything in an outreach sense to try to  
26 bring in people into what obviously must touch upon an  
27 entrepreneurial program?

28 MR. LOPEZ: Well, St. Mary's College is a fine





1 college, and they -- they have excellent management programs for  
2 undergraduate degrees, and now, I understand, MBA degrees.  
3 So, they are one program like others that are seeking  
4 entrepreneurship-type education from a formal point of view.

5 So clearly, that's, if you will, in the academic  
6 system, the academic or four-year college institutions, and  
7 therein probably lies a lot of entrepreneurship kind of  
8 thinking, or the school of thought of entrepreneurship in an  
9 academic sense.

10 There is a transition occurring at the federal level  
11 that's impacting us at the state, and a changing, if you will,  
12 of legislation, as we understand it, so that more  
13 entrepreneurship programs could be funded for persons interested  
14 in entrepreneur-type employment.

15 So, we have been tied down to the current laws and  
16 regulations for the retraining of dislocated workers, for  
17 example, but my understanding is that under Secretary Raisch,  
18 they are re-looking at entrepreneurship regulations.

19 SENATOR CRAVEN: Thank you very much.

20 CHAIRMAN LOCKYER: Part of your responsibilities  
21 involve the Job Training Coordinating Council. Are you in that  
22 loop?

23 MR. LOPEZ: Yes, sir, very much so.

24 The new State Job Coordinating Council membership is  
25 very much looking at the broader picture of employment and  
26 training programs. As I mentioned, the JTPA is only one of 23.  
27 They are looking at the whole policy issue of work force  
28 preparation for the future. They are looking very carefully at



1 preparing a strategic plan for training people for the future  
2 job market, if you will, for the state.

3 Our role, my role, is the administrative portion of  
4 the Job Training Partnership Act. There are certain plans and  
5 policies that must go before the Council for their approval. We  
6 also work within the Department, which is the Employment  
7 Development Department, on policy analysis, which is, again, the  
8 broader picture, not just the one singular program of JTPA, and  
9 of course with Council staff, the State Job Coordinating Council  
10 staff.

11 So, our role is to present the policies,  
12 recommendations, to the Council for their recommendation as it  
13 relates to the Job Training Partnership program, and their own  
14 recommendations down to the delivery system in terms of new and  
15 emerging occupations. I think they are the ones that are going  
16 to take a greater lead to give direction to the delivery system  
17 on what the needs of businesses are and what the needs of people  
18 are for training them for new occupations.

19 CHAIRMAN LOCKYER: What are those?

20 MR. LOPEZ: This is a new Council, and some of the  
21 information I have, just very briefly, are those that are in the  
22 vehicle industry; big potential job market there. The  
23 electronics industry, including panels, flat panel industry.  
24 There is an emerging industry in the medical field with a  
25 variety of technology, including lasers. Just a variety of  
26 things that are coming up.

27 Much of this has come forward from the Technology  
28 Reinvestment Project applications that have come from the



1 private sector. The state has received, through Trade and  
2 Commerce, over 300 applications for matching funds for research  
3 and development. And that research and development, over the  
4 next few years, will determine the kind of occupations that will  
5 be in the State of California, which is in the light vehicle  
6 industry, again electronics, laser, and medical, and a few  
7 others are outlined.

8 CHAIRMAN LOCKYER: What's that pot of money?

9 MR. LOPEZ: The Technology Reinvestment Project.

10 CHAIRMAN LOCKYER: It's federal?

11 MR. LOPEZ: It's federal funds. And as I understand  
12 it, there's over \$750 million, and California's pending about 25  
13 percent of the federal funds for research and development.

14 And our role in there is the training/matching  
15 portion.

16 CHAIRMAN LOCKYER: Other questions?

17 Are there people who would wish to comment, either  
18 pro or con?

19 SENATOR CRAVEN: Move the nomination to the Floor.

20 CHAIRMAN LOCKYER: Thank you, Senator Craven.

21 Let's call the roll.

22 SECRETARY WEBB: Senator Ayala.

23 SENATOR AYALA: Aye.

24 SECRETARY WEBB: Ayala Aye. Senator Beverly.

25 SENATOR BEVERLY: Aye.

26 SECRETARY WEBB: Beverly Aye. Senator Petris.

27 SENATOR PETRIS: Aye.

28 SECRETARY WEBB: Petris Aye. Senator Craven.





1 SENATOR CRAVEN: Aye.

2 SECRETARY WEBB: Senator Craven Aye. Senator  
3 Lockyer.

4 CHAIRMAN LOCKYER: Aye.

5 SECRETARY WEBB: Five to zero.

6 MR. LOPEZ: Thank you very much.

7 CHAIRMAN LOCKYER: Vince Palmer, good afternoon.

8 MR. PALMER: Good afternoon.

9 CHAIRMAN LOCKYER: Well, do you want to tell us about  
10 what you're doing here?

11 MR. PALMER: Yes.

12 CHAIRMAN LOCKYER: How do you like this job?

13 MR. PALMER: I love it.

14 CHAIRMAN LOCKYER: Do you?

15 MR. PALMER: I've been on the Youthful Offender  
16 Parole Board for a little over six months now as a result of the  
17 appointment. However, I started my career with the California  
18 Youth Authority itself in 1968.

19 I was hired on as a teacher at the institution  
20 located in Whittier. I spent approximately five or six years  
21 teaching at that institution, and then --

22 CHAIRMAN LOCKYER: At least you didn't have truants.

23 MR. PALMER: We had runaways. In fact, I believe,  
24 several went over the fence that year.

25 Shortly after that experience as a teacher in the  
26 institution, I began to experience custody and the treatment  
27 aspect of the institution, and moved into a staff training role,  
28 where I trained new and existing staff in the policies and



1 procedures of running an institution.

2 I then moved into a mid-management position and  
3 supervised living units and the living unit staff. From there,  
4 I went into what we called a due process coordinator's position.  
5 In that position, I was responsible for the investigations of  
6 inmate misbehavior and also coordinated the ward rights  
7 grievance procedure that had been established by that time.

8 From there, I left to become a parole agent in the  
9 San Bernardino County area, Senator Ayala's territory, and  
10 established a specialized gang caseload, the first in that area.  
11 I covered the territory from Chino east to the City of San  
12 Bernardino, and handled nothing but gang members, which was  
13 quite an experience.

14 From that position, I moved to the Riverside County  
15 office and did basically the same thing, and eventually to Long  
16 Beach, and then to Orange County, where I established an Asian  
17 gang caseload, the first of that kind, in Southern California.

18 As you probably know, there are more Vietnamese  
19 located in the Westminster-Garden Grove area than anywhere else  
20 in the United States, so that has been quite an experience.

21 Concurrent with the parole experience, I was also a  
22 representative for all of the field parole agents in the State  
23 of California through the collective bargaining process, and did  
24 negotiate all of the various kinds of programs that parole was  
25 involved in.

26 CHAIRMAN LOCKYER: Well, you're a teacher, so I'd  
27 invite you to school a little and just take a moment to teach us  
28 what you've learned about youthful offenders. How do we address



1 or minimize or reduce the problem of re-offense, or offenses in  
2 the first place, and gangs particularly, and what we might do to  
3 be doing a better job in addressing gang violence and numbers?

4 MR. PALMER: First of all, I should say that,  
5 beginning with the Youth Authority in 1968, we were dealing with  
6 a much different individual than we're dealing with today. The  
7 great majority of wards in the Youth Authority at that time were  
8 your status offenders: your runaways and your incorrigibles.  
9 This was my beginnings.

10 Shortly thereafter, with the Olivas decision, and the  
11 establishment of probation subsidy, the population of the Youth  
12 Authority changed dramatically. The status offenders were no  
13 longer housed with us. We maintained only 602, or criminal  
14 type, wards in the institution.

15 The more serious offenders came back to us from the  
16 Department of Corrections. They were being housed at that time  
17 in their institutions.

18 We began to see the emergence of the street gangs;  
19 namely, the Crypts and Bloods, at that time. The older Hispanic  
20 gangs, of course, had been around for a long time, but this was  
21 a new phenomena. Later, we began to see the emergence of the  
22 white gangs and the racist-type activities.

23 So, the inmate in the institution has progressively  
24 grown more aggressive and more criminally inclined. The types  
25 of commitment offenses that we're seeing now are just shocking.

26 CHAIRMAN LOCKYER: What happened?

27 MR. PALMER: In my opinion, what happened was, I  
28 think a critical, critical thing that happened was the removal





1 of the status offender from a locked facility. When parents no  
2 longer had the authority or the juvenile justice system no  
3 longer had the authority to take an incorrigible or a runaway  
4 and detain them for any period of time, so that they understood  
5 that their behavior was accountable, we lost something. I think  
6 parents lost, and I think the schools lost.

7 About that same time, the expansion of juveniles'  
8 rights seemed to have occurred. The concept of just about full  
9 and complete rights as a juvenile and as an adult again eroded  
10 the authority of the school system and the parent, and the  
11 children began to know that.

12 I know personally people who ask, "What can I do with  
13 my child, a 13-year old who wants to run away? There's nothing  
14 I can do."

15 That kind of an attitude, along with the movement of  
16 more and more men and women in the work force, latch-key kids,  
17 lack of supervision, the emergence of the street gangs and the  
18 spread of the street gangs, and the spread of the violence, has  
19 all compounded the problem and led us to where we're at today.

20 CHAIRMAN LOCKYER: Anything specifically that we  
21 should do to address the gang problem, in your view?

22 You've talked about some sort of mega-trends, which  
23 may or may not be susceptible to change.

24 MR. PALMER: In my opinion, we're being invaded. Our  
25 cities are under invasion by the street gangs, and we need to  
26 somehow gain control of the street to make this a safe place to  
27 live again. To make it safe for the kids who want to go to  
28 school, who want to succeed, who want to work, who want to obey



1 the rules and regulations.

2 CHAIRMAN LOCKYER: How would you do that?

3 MR. PALMER: That is a difficult question.

4 I think we need to start dealing with some of these  
5 young street gang members as adults, and meting out adult-type  
6 punishments.

7 I think we need to also start at the elementary  
8 schools. I had experience to do this in the Orange County area.  
9 Another parole agent and myself would visit the elementary  
10 schools and talk to kids about the criminal justice system, and  
11 about gangs, and where that was leading them.

12 It was no surprise to them. They had brothers and  
13 sisters who were active gang members and had seen violence in  
14 their homes and their neighborhoods.

15 But that's our only hope, at the very youngest level;  
16 the very youngest level.

17 SENATOR AYALA: Question.

18 CHAIRMAN LOCKYER: Senator Ayala.

19 SENATOR AYALA: Mr. Palmer, looking through the bio,  
20 you are a member of the Western Gang Association?

21 MR. PALMER: I was when I worked in that county.

22 SENATOR AYALA: The February 2nd memo that we have  
23 tells us that CYA institutions are designed for 8,727 wards --  
24 strike that. They're designed for 5,850, but now they're  
25 housing 8,727 wards.

26 Is the Board now allowing early releases to these  
27 selected wards in order to hold down the population?

28 MR. PALMER: No. Every case that I'm aware of, that



1 I've sat on, has been dealt with on an individual basis. We're  
2 evaluating the merits of that particular case and making the  
3 decision.

4 Of course, we're limited by age, and that's a major  
5 factor.

6 SENATOR AYALA: But the criteria do not include  
7 selective wards' early release in order to keep --

8 MR. PALMER: I've never been asked to release a ward  
9 early for population purposes, nor do I know anyone else who has  
10 been asked to do that.

11 CHAIRMAN LOCKYER: Other questions?

12 Is there anyone in the audience who would wish to  
13 make a comment?

14 What's the pleasure of the Committee?

15 SENATOR AYALA: I'll move.

16 CHAIRMAN LOCKYER: Moved by Senator Ayala.

17 Yes, ma'am. Do you want to come on up?

18 MS. MONTGOMERY: My question is about the --

19 CHAIRMAN LOCKYER: Tell us your name.

20 MS. MONTGOMERY: My name is Dorothy Montgomery.

21 My question is, giving -- working with youth as adult  
22 offenders, and I know they're committing rapes, and different  
23 other kinds of crimes, but do you think that putting them away  
24 longer, and them being aware that they're going to be put away  
25 longer, is going to cause them to commit more heinous kinds of  
26 crimes? Like, if they were going to just shoot one person,  
27 maybe they'll shoot 20 of them because they think that they're  
28 not going to get out ever?





1 MR. PALMER: In my opinion, no.

2 MS. MONTGOMERY: Thank you.

3 CHAIRMAN LOCKYER: Come on up, have a chair, and  
4 identify yourself.

5 MS. BRANNON: My name is Eleanor Brannon.

6 I just wanted to ask, you talk about using the system  
7 of trying children as adults, which I agree with. I feel that  
8 it's possibly one of the ways that we can sort of make an  
9 incentive-type of program to keep them from committing these  
10 crimes.

11 But in the long term, have you thought about  
12 addressing -- have you addressed that issue at all? I mean,  
13 what were the plans with something like that?

14 MR. PALMER: Well, whether you're aware of it or not,  
15 we are already trying some juveniles as adults.

16 MS. BRANNON: Right. I've seen some cases of that,  
17 and possibly --

18 CHAIRMAN LOCKYER: There's an age limit, and it's up  
19 to the court. It's up to the local court which track they're  
20 on, juvenile or adult.

21 MS. BRANNON: Well, I just -- I've recently started  
22 trying to research the issue of crime and justice and things  
23 that we've done in our country, and what is recently being used,  
24 of course, as you know, is from our past, and it's no longer  
25 really viable these days.

26 And do you really see an increasing to trying youth  
27 as adult criminals?

28 MR. PALMER: Yes.



1           When you take a look at the inmates, wards, in the  
2 Youth Authority today, the Youth Authority statistics show that  
3 67 -- approximately 67 percent of the wards in the Youth  
4 Authority are in for violent offenses; violent against persons.

5           Just a few years ago, seven, eight years ago, that  
6 was -- that kind of a figure was for property offenses and drug  
7 offenses.

8           We are seeing young people coming through our system  
9 that are committing serious murders, serious sexual crimes,  
10 serious arson crimes on the persons of the State of California.  
11 And some how, that has to stop.

12           If it requires incarceration to do that, to break  
13 that pattern, then I think it's necessary.

14           MS. BRANNON: Are you aware, though, also of -- I had  
15 heard a little rap song by one of the groups that looks at  
16 prison as three meals and a cot. And there was also a  
17 television program where they showed a young gentleman being  
18 tried for a crime, and he says, "All you're doing is offering me  
19 three meals and a cot."

20           I think it would also -- not only trying them as  
21 adult offenders, but also putting something else there that  
22 would make it even harder --

23           CHAIRMAN LOCKYER: It's called a knife and rape.  
24 There's plenty of not pleasant things that go on.

25           MS. BRANNON: You're right. I'm very aware of --

26           MR. PALMER: I would suggest that you visit a Youth  
27 Authority institution and look at the various programs that are  
28 available, far and above many of the programs that are available



1 in the community in terms of education and vocational training,  
2 psychiatric treatment, psychological treatment. The  
3 institutions expend great amounts of money to provide the  
4 treatment and training for these young people.

5 Whether they choose to take advantage of it or not,  
6 of course, is only up to them. But three meals and a cot is not  
7 the Youth Authority.

8 CHAIRMAN LOCKYER: Do you, Mr. Palmer, think that  
9 those other expenditures are necessary and appropriate?

10 MR. PALMER: Oh, most certainly. We have young  
11 people incarcerated for serious crimes. It doesn't mean that we  
12 throw the key away on them.

13 The mission of the Youth Authority is to provide  
14 treatment and training, as well as to protect the public. How  
15 else can you do that other than providing the programs?

16 CHAIRMAN LOCKYER: Thank you for being forthright. I  
17 think we have a good sense of your direction and person.

18 Senator Ayala made the motion. Please call the roll.

19 SECRETARY WEBB: Senator Ayala.

20 SENATOR AYALA: Aye.

21 SECRETARY WEBB: Ayala Aye. Senator Beverly.

22 SENATOR BEVERLY: Aye.

23 SECRETARY WEBB: Beverly Aye. Senator Petris.

24 SENATOR PETRIS: Aye.

25 SECRETARY WEBB: Petris Aye. Senator Craven.

26 SENATOR CRAVEN: Aye.

27 SECRETARY WEBB: Senator Craven Aye. Senator  
28 Lockyer.





1 CHAIRMAN LOCKYER: Aye.

2 SECRETARY WEBB: Five to zero.

3 MR. PALMER: Thank you very much.

4 [Thereupon this portion of the  
5 Senate Rules Committee hearing  
6 was terminated at approximately  
7 2:45 P.M.]

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I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 14<sup>th</sup> day of February, 1994.

  
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